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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

AARON LAMONT STRIBLING,  
Plaintiff,  
v.  
R. MOTT, et al.,  
Defendants.

No. 2:16-cv-0400 CKD P

ORDER

Plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

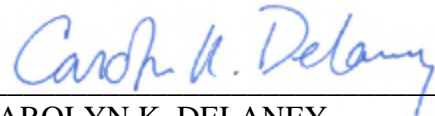
“When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.’” Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish

1 exceptional circumstances that would warrant a request for voluntary assistance of counsel.

2 In the present case, plaintiff requests appointment of counsel on the ground that he is  
3 unable to take oral depositions of the defendants because he is incarcerated. ECF No. 47. Since  
4 plaintiff is proceeding in forma pauperis, the court assumes that it is not actually plaintiff's  
5 incarcerated status that prevents him from taking defendants' depositions, but his lack of funds.<sup>1</sup>  
6 Not only is this circumstance common to all prisoner, but plaintiff has failed to demonstrate that  
7 he is unable to obtain the necessary information through other discovery. Moreover, the  
8 appointment of counsel would not guarantee that defendants would be deposed. Accordingly, the  
9 court does not find the required exceptional circumstances. Plaintiff's request for the  
10 appointment of counsel will therefore be denied.

11 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of  
12 counsel (ECF No. 47) is denied.

13 Dated: December 20, 2017



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15 CAROLYN K. DELANEY  
16 UNITED STATES MAGISTRATE JUDGE

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28 <sup>1</sup> Although logistically more difficult, if plaintiff does in fact have the funds to pay for a court reporter, he can take defendants' depositions.