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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CURTIS EARNEST ADAMS,

No. 2:16-CV-0569-TLN-CMK-P

Plaintiff,

vs.

ORDER

PEOPLE OF THE STATE OF
CALIFORNIA,

Defendant.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff’s motions for the appointment of counsel (Docs. 8 and 9).

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. See 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). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). A finding of “exceptional circumstances” requires an evaluation of both the

1 likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his
2 own in light of the complexity of the legal issues involved. See Terrell, 935 F.2d at 1017.
3 Neither factor is dispositive and both must be viewed together before reaching a decision. See
4 id.

5 In the present case, the court does not at this time find the required exceptional
6 circumstances. Plaintiff has demonstrated an adequate ability to articulate his claims on his own.
7 Further, plaintiff's claim regarding legal mail is not legally complex. Finally, for the reasons
8 stated in the findings and recommendations issued herewith, the court finds that there is no
9 chance of success on the merits because plaintiff fails to state a cognizable claim.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's requests for the
11 appointment of counsel (Docs. 8 and 9) are denied.

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13 DATED: February 3, 2017

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15 **CRAIG M. KELLISON**
16 UNITED STATES MAGISTRATE JUDGE
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