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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DIRK JA'ONG BOUIE, Jr.,

Plaintiff,

v.

R. WILLOX, et al.,

Defendants.

No. 2:16-cv-0624 JAM AC P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel. Plaintiff appears to be requesting relief from the Ninth Circuit regarding an appeal of the judgment in the instant action. ECF No. 69. Plaintiff previously requested and received an extension of time to file a notice of appeal, (ECF Nos. 67 & 68), but has not yet filed a notice of appeal.

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 district 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).

The test for exceptional circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,

1 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances  
2 common to most prisoners, such as lack of legal education and limited law library access, do not  
3 establish exceptional circumstances that would warrant a request for voluntary assistance of  
4 counsel. In the present case, the court does not find the required exceptional circumstances.

5 Moreover, any motion for appointment of counsel on appeal should be directed to the  
6 Court of Appeals.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of  
8 counsel (ECF No. 69) is denied.

9 DATED: October 14, 2020

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11 ALLISON CLAIRE  
12 UNITED STATES MAGISTRATE JUDGE  
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