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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GRADY HARRIS,  
Plaintiff,  
v.  
JEFF MACOMBER, et al.,  
Defendants.

No. 2:16-cv-0830 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Presently before the court is plaintiff’s motion to appoint counsel. (ECF No. 134.)

In support of his motion to appoint counsel plaintiff argues that his imprisonment limits his ability to litigate, the issues are complex, he has limited access to the law library, he failed to effectively participate in the discovery process, trial will involve conflicting testimony, and he has tried to obtain a lawyer. (Id. at 1-2.)


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).

1 The test for exceptional circumstances requires the court to evaluate the plaintiff's  
2 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in  
3 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,  
4 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances  
5 common to most prisoners, such as lack of legal education and limited law library access, do not  
6 establish exceptional circumstances that would warrant a request for voluntary assistance of  
7 counsel. In the present case, the court does not find the required exceptional circumstances.

8 While the court is sympathetic to the inherent difficulties in litigating a case while  
9 incarcerated, the arguments raised in support of plaintiff's motion are largely circumstances  
10 common to most inmates. Throughout this litigation plaintiff has shown he is able to articulate  
11 his claims pro se in light of the complexity involved. Therefore, the undersigned will deny the  
12 motion to appoint counsel without prejudice.

13 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of  
14 counsel (ECF No. 134) is denied without prejudice.

15 Dated: October 4, 2022

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19 DEBORAH BARNES  
20 UNITED STATES MAGISTRATE JUDGE  
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26 DB/DB Prisoner Inbox/Civil Rights/R/harr0830.31(3)  
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