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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	CARL FOUST,	No. 2:16-cv-2731 WBS AC P
12	Plaintiff,	
13	v.	<u>ORDER</u>
14	O. KUKU-OJO, et al.,	
15	Defendants.	
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17	Plaintiff has requested the appointment of counsel. The United States Supreme Court has	
18	ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983	
19	cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional	
20	circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C.	
21	§ 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900	
22	F.2d 1332, 1335-36 (9th Cir. 1990).	
23	"When determining whether 'exceptional circumstances' exist, a court must consider 'the	
24	likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his claims	
25	pro se in light of the complexity of the legal issues involved.'" Palmer v. Valdez, 560 F.3d 965,	
26	970 (9th Cir. 2009) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden	
27	of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to	
28	most prisoners, such as lack of legal education and limited law library access, do not establish	
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1 exceptional circumstances that would warrant a request for voluntary assistance of counsel.

2	Plaintiff requests counsel on the grounds that he has head trauma, brain damage, and a	
3	learning disability. ECF No. 48. The request will be denied because the mere claim that plaintiff	
4	suffers from these conditions is not enough to establish exceptional circumstances warranting	
5	appointment of counsel. If plaintiff chooses to file another motion for appointment of counsel, he	
6	should specify how his conditions prevent him from proceeding without assistance and provide	
7	medical documentation supporting his claimed impairments.	
8	Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of	
9	counsel (ECF No. 48) is denied without prejudice.	
10	DATED: March 27, 2019	
11	allison claire	
12	UNITED STATES MAGISTRATE JUDGE	
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