UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ZWIRN,

Plaintiff,

v.

A. RUGGIERO,

Defendant.

No. 2:16-cv-2853 CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has requested appointment of counsel. The court cannot *require* an attorney to represent a plaintiff who cannot pay for the attorney's services. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). However, under the federal in forma pauperis statute, 28 U.S.C. § 1915, the court may *request* that an attorney represent a person unable to afford counsel. 28 U.S.C. § 1915(e)(1). The court will make that request only when there are exceptional circumstances. When determining whether "exceptional circumstances" exist, the court considers, among other things, plaintiff's 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). While the court is aware of the difficulties attendant to litigating an action while incarcerated, circumstances common to most prisoners do not establish "exceptional circumstances."

In the present case, the court does not find the required exceptional circumstances at this stage of these proceedings.

Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of counsel (ECF No. 16) is denied.

Dated: June 6, 2017

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

1/bh
zwir2853.31(1)