

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TODD ROBBEN,
Plaintiff,
v.
JAMES R. WAGONER, et al.,
Defendants.

No. 2:16-cv-3022 JAM CKD P

ORDER

Plaintiff, an El Dorado County Jail inmate 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
/////

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

3 Plaintiff has also filed a motion for extension of time to file an amended complaint. Good
4 cause appearing, that request will be granted.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Plaintiff’s motion for the appointment of counsel (ECF No. 11) is denied.

7 2. Plaintiff’s motion for an extension of time (ECF No. 11) is granted; and

8 3. Plaintiff is granted thirty days from the date of this order in which to file an amended
9 complaint. Failure to file an amended complaint within 30 days will result in a recommendation
10 that this action be dismissed.

11 Dated: April 14, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

12
13
14
15
16 1/mp
17 robb3022.31+36
18
19
20
21
22
23
24
25
26
27
28