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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT COLEMAN,  
Plaintiff,  
v.  
T. VIRGA, et al.,  
Defendants.

No. 2:17-cv-0851 KJM KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, in an action brought under 42 U.S.C. § 1983. Plaintiff requests that the court appoint counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 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). When determining whether “exceptional circumstances” exist, the court must consider 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) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not


1 establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

2 In the motion for appointment of counsel, plaintiff alleges that restrictions imposed due to  
3 COVID 19 will hinder his attempts to prepare an opposition to a dispositive motion filed by  
4 defendants. Plaintiff may file a request for extension of time to file his opposition if he requires  
5 additional time to prepare his opposition.

6 Having considered the factors under Palmer, the court finds that plaintiff has failed to  
7 meet his burden of demonstrating exceptional circumstances warranting the appointment of  
8 counsel at this time.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of  
10 counsel (ECF No. 77) is denied without prejudice.

11 Dated: May 26, 2020

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14 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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