

1 United States District Judge.” (Id.)

2 Initially, the undersigned notes that plaintiff has filed four separate documents declining to
3 proceed before a United States Magistrate Judge. (ECF Nos. 8, 10, 11, 14.) On May 30, 2017,
4 following plaintiff’s first declination form, the court assigned United States District Judge John
5 A. Mendez to this case. As plaintiff himself handwrote on his first form, “a Magistrate Judge
6 may not preside over the trial in this case or make dispositive rulings without all parties’ written
7 consent. 28 U.S.C. § 636(c).” (ECF No. 8 at 1.) However, a Magistrate Judge may perform the
8 duties assigned pursuant to 28 U.S.C. § 636(c) and Eastern District Local Rule 302. (ECF No. 8
9 at 1.) Thus, the undersigned will continue to address nondispositive motions in this case under 28
10 U.S.C. § 636(b)(1)(B) and Local Rule 302, and will issue findings and recommendations on
11 dispositive motions. Should the case go to trial, Judge Mendez will preside over any trial.

12 Therefore, to the extent plaintiff believes he can obtain an order assigning his case solely to Judge
13 Mendez by continuing to file forms declining consent to the jurisdiction of a Magistrate Judge,
14 plaintiff is mistaken. Accordingly, plaintiff should refrain from filing such duplicative forms.²

15 Second, despite the guidance and standards provided in the May 17, 2017 screening order,
16 plaintiff appears to again contemplate filing a pleading that raises wholly unrelated factual
17 allegations against multiple unrelated defendants. Plaintiff is cautioned that it is improper to file
18 a “shotgun” pleading, which alleges “that multiple parties did an act, without identifying which
19 party did what specifically,” and advances “multiple claims, [but] does not identify which specific
20 facts are allocated to which claim.” Hughey v. Camocho, 2014 WL 5473184, at *4 (E.D. Cal.
21 Oct. 23, 2014) (citing Magluta v. Samples, 256 F.3d 1282, 1284 (11th Cir. 2001)); see George v.
22 Smith, 507 F.3d 605, 607 (7th Cir. 2007); see also Fed. R. Civ. P. 20(a)(2) (joinder of defendants
23 not permitted unless both commonality and same transaction requirements are satisfied). As
24 plaintiff was informed in the screening order, this court is barred from directly interfering with
25 ongoing criminal proceedings in state court, absent extraordinary circumstances not alleged in the

26 ² Moreover, plaintiff is cautioned that a litigant proceeding in forma pauperis may suffer
27 restricted access to the court where it is determined that he has filed excessive motions in a
28 pending action. DeLong v. Hennessey, 912 F.2d 1144 (9th Cir. 1990); see also Tripati v.
Beaman, 878 F.2d 351, 352 (10th Cir. 1989).

1 complaint. (ECF No. 6 at 4, citing Younger v. Harris, 401 U.S. 37, 46 (1971); Mann v. Jett, 781
2 F.2d 1448, 1449 (9th Cir. 1986) (“When a state criminal prosecution has begun the Younger rule
3 directly bars a declaratory judgment action” as well as a section 1983 action for damages “where
4 such an action would have a substantially disruptive effect upon ongoing state criminal
5 proceedings.”).

6 Third, plaintiff appears to seek the appointment of counsel. Plaintiff’s reference to
7 Faretta, as well as his status as a pretrial detainee, suggests that plaintiff is seeking counsel (or
8 new counsel) in his underlying criminal proceedings. However, this court does not have
9 jurisdiction to appoint counsel to represent plaintiff in state criminal proceedings. He must
10 pursue such requests in his state criminal proceedings.

11 To the extent plaintiff seeks appointment of counsel in the instant action, such request is
12 premature. District courts lack authority to require counsel to represent indigent prisoners in
13 section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In
14 exceptional circumstances, the court may request an attorney to voluntarily represent such a
15 plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991);
16 Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether
17 “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the
18 merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity
19 of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court
20 did not abuse discretion in declining to appoint counsel). The burden of demonstrating
21 exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such
22 as lack of legal education and limited law library access, do not establish exceptional
23 circumstances that warrant a request for voluntary assistance of counsel.

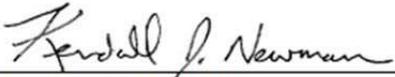
24 Here, the court is unable to evaluate plaintiff’s likelihood of success on the merits of the
25 instant case because his complaint has been dismissed and he has not yet filed a pleading that
26 states a cognizable civil rights claim. Having considered the factors under Palmer, the court finds
27 that plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting
28 the appointment of counsel at this time.

1 Finally, because it appears that plaintiff's document was written before the findings and
2 recommendations issued, the undersigned will construe his recent filing as a request for extension
3 of time to amend, vacate the findings and recommendations, and grant plaintiff an extension of
4 time in which to file his amended complaint. Plaintiff is cautioned, however, that he must timely
5 file his amended complaint, and the amended complaint must comply with the May 17, 2017
6 order. Failure to do so will result in a recommendation that this action be dismissed.

7 Good cause appearing, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's July 5, 2017 filing is construed as a request for extension of time to amend
9 (ECF No. 13);
- 10 2. Plaintiff's request (ECF No. 13) is granted;
- 11 3. Plaintiff is granted thirty days from the date of this order in which to comply with the
12 May 17, 2017 order; and
- 13 4. Plaintiff's request for appointment of counsel (ECF No. 13) is denied without
14 prejudice.

15 Dated: July 13, 2017

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KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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