1		
2		
3		
4		
5		
6	UNITED STATES DISTRICT COURT	
7	FOR THE EASTERN DISTRICT OF CALIFORNIA	
8		
9	CARL FOUST,	No. 2:17-cv-1227 JAM CKD P
10	Plaintiff,	
11	v.	ORDER
12	HARDIN INSURANCE COMPANY, et	
13	al.,	
14	Defendants.	
15		
16	Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983.	
17	Plaintiff requests that the court appoint counsel. District courts lack authority to require counsel	
18	to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490	
19	U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to	
20	voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d	
21	1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).	
22	When determining whether "exceptional circumstances" exist, the court must consider plaintiff's	
23	likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro	
24	se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970	
25	(9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The	
26	burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances	
27	common to most prisoners, such as lack of legal education and limited law library access, do not	
28	establish exceptional circumstances that warrant a request for voluntary assistance of counsel.	

1	Having considered the factors under Palmer, the court finds that plaintiff has failed to	
2	meet his burden of demonstrating exceptional circumstances warranting the appointment of	
3	counsel at this time.	
4	Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of	
5	counsel (ECF No. 20) is denied.	
6	Dated: August 30, 2017 Carop U. Delany	
7	CAROLYN K. DELANEY	
8	UNITED STATES MAGISTRATE JUDGE	
9		
10		
11	1/bh	
12	fous1227.31(3)	
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
	2	