

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

VILAYCHITH KHOUANMANY,
Plaintiff,
v.
UNITED STATES MARSHALS, et al.,
Defendants.

No. 2:17-cv-1326-TLN-EFB P

ORDER

Plaintiff is a federal prisoner proceeding pro se with claims premised under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). She requests that the court appoint counsel. As has previously been explained, *see* ECF Nos 31, 42, 49, 60, 64, 67, 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 to 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 the 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). Having considered those factors once again, the court still finds there are no exceptional circumstances in this case.

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

Accordingly, IT IS HEREBY ORDERED that plaintiff's request for appointment of counsel (ECF No. 76) is denied.

DATED: April 23, 2019.



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE