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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD ANTHONY EVANS,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

No. 2:17-cv-1888 AC P

ORDER

On May 13, 2019, plaintiff filed a motion for the appointment of counsel. ECF No. 42. In support of the motion, plaintiff asserts that he has limited access to the resources needed to adequately prosecute this case. See id.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 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).

The test for exceptional circumstances requires the court to evaluate the plaintiff’s likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,

1 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
2 common to most prisoners, such as lack of legal education and limited law library access, do not
3 establish exceptional circumstances that would warrant a request for voluntary assistance of
4 counsel. In the present case, the court does not find the required exceptional circumstances.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
6 counsel (ECF No. 42) is DENIED.

7 DATED: May 21, 2019

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9 ALLISON CLAIRE
10 UNITED STATES MAGISTRATE JUDGE
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