1 2 3 4 5 UNITED STATES DISTRICT COURT 6 7 FOR THE EASTERN DISTRICT OF CALIFORNIA 8 9 No. 2:17-cv-2071 MCE CKD P DONNY KAY SNEED, 10 Plaintiff, 11 **ORDER** v. 12 SCOTT KERNAN, et al., 13 Defendants. 14 15 Plaintiff is a state prisoner proceeding pro se in an action brought pursuant to 42 U.S.C. 16 § 1983. Plaintiff requests that the court appoint counsel. District courts lack authority to require 17 counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. 18 Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney 19 to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); Terrell v. Brewer, 935 F.2d 20 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 21 When determining whether "exceptional circumstances" exist, the court must consider plaintiff's 22 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 23 24 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The 25 burden of demonstrating exceptional circumstances is on the plaintiff. <u>Id.</u> Circumstances 26 common to most prisoners, such as lack of legal education and limited law library access, do not

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

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Having considered the factors under Palmer, the court finds that plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel at this time. Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of counsel (ECF No. 37) is denied without prejudice. Dated: July 26, 2018 arch U. Der UNITED STATES MAGISTRATE JUDGE 12/snee2071.31