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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JORGE PALACIOS,
Plaintiff,
v.
KEVIN SMITH, et al.,
Defendants.

No. 2:17-cv-2500 TLN CKD P

ORDER

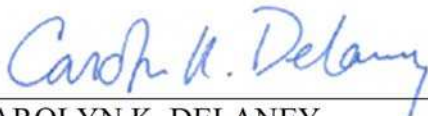
Plaintiff has requested the appointment of counsel. (ECF No. 43.) The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, 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).

“When determining whether ‘exceptional circumstances’ exist, a 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) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel.

1 Plaintiff requests appointment of counsel based on his limited knowledge of the law,
2 difficulty in gathering evidence for trial, "simple English," and health problems. (ECF No. 43.)
3 These circumstances are common to most prisoners and do not establish exceptional
4 circumstances warranting the appointment of counsel. Moreover, plaintiff has thus far
5 demonstrated that he is capable of articulating his claims without assistance.

6 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of
7 counsel (ECF No. 43) is denied.

8 Dated: June 26, 2019

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11 CAROLYN K. DELANEY
12 UNITED STATES MAGISTRATE JUDGE

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