1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA 8 9 10 JOSHUA BLOCKER, No. 2:18-cv-0253 DB P 11 Plaintiff, 12 **ORDER** v. 13 JAMES SADIGHI, et al., 14 Defendants. 15 16 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 17 U.S.C. § 1983. Plaintiff claims officers used excessive force against him in violation of his Eighth Amendment rights. Presently before the court is plaintiff's motion requesting the 18 19 appointment of counsel. (ECF No. 22.) 20 In support of his motion to appoint counsel plaintiff argues that he is unable to afford 21 counsel, his imprisonment will limit his ability to litigate, the issues are complex, trial will likely 22 involve conflicting testimony, and he is currently receiving mental health treatment. 23 The United States Supreme Court has ruled that district courts lack authority to require 24 counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 25 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the 26 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 27 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). //// 28 1

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, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). In the present case, the court does not find the required exceptional circumstances. 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. Additionally, plaintiff's claim that he suffers from a mental health condition is unsupported by any evidence and he has not explained how his mental health issues affect his ability to articulate his claims. Thus, the court will deny plaintiff's motion to appoint counsel without prejudice. Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of counsel (ECF No. 22) is denied. DATED: April 25, 2019 DLB:12 DLB:1/Orders/Prisoner/Civil.Rights/bloc0253.31