1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 TIENGKHAM SINGANONH, No. 2:18-cv-1824 AC P 12 Plaintiff, 13 v. **ORDER** 14 R. FINE, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested 18 appointment of counsel. 19 The United States Supreme Court has ruled that district courts lack authority to require 20 counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 21 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the 22 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 23 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 24 "When determining whether 'exceptional circumstances' exist, a court must consider 'the 25 likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his claims 26 pro se in light of the complexity of the legal issues involved." Palmer v. Valdez, 560 F.3d 965, 27 970 (9th Cir. 2009) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden 28 of demonstrating exceptional circumstances is on the plaintiff. <u>Id.</u> Circumstances common to 1

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.

Plaintiff seeks appointment of counsel on the grounds that he is indigent, his ability to litigate is limited by his imprisonment and lack of access to a law library, and an attorney would be better able to apply the law and present evidence at trial. These are circumstances are common to most prisoners and do not establish the exceptional circumstances necessary for appointment of counsel. Furthermore, it is not clear that this case will proceed to trial and at this stage, plaintiff appears capable of articulating his claims without the assistance of counsel.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of counsel (ECF No. 12) is denied.

DATED: April 30, 2019

allison Claire

UNITED STATES MAGISTRATE JUDGE