

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 KOHEN DIALLO E. UHURU,

12 Plaintiff,

13 v.

14 CHERYLINE MANCUSI, et al.,

15 Defendants.  
16

No. 2:20-cv-2088 KJN P

ORDER

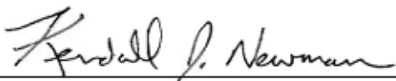
17 Plaintiff is a state prisoner, proceeding pro se, in an action brought under 42 U.S.C.  
18 § 1983. Plaintiff requests that the court appoint counsel. District courts lack authority to require  
19 counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist.  
20 Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney  
21 to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d  
22 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).  
23 When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s  
24 likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro  
25 se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970  
26 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The  
27 burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances  
28 common to most prisoners, such as lack of legal education and limited law library access, do not

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

2 Having considered the factors under Palmer, the court finds that plaintiff has failed to  
3 meet his burden of demonstrating exceptional circumstances warranting the appointment of  
4 counsel at this time.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of  
6 counsel (ECF No. 3) is denied without prejudice.

7 Dated: November 17, 2020

8   
9 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

10 /uhur2088.31