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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS,
Plaintiff,
v.
O. ORTEGA, et al.,
Defendants.

Case No.: 18cv547-LAB-MDD

**ORDER DENYING PLAINTIFF'S
MOTION TO APPOINT COUNSEL**

[ECF No. 120]

On January 20, 2021, Plaintiff, a state prisoner proceeding *pro se* and *in forma pauperis*, moved the Court to appoint counsel. (ECF No. 120). In support, Plaintiff explains the case is “too complex and difficult to litigate with [his] mental health impairments and [the] coronavirus pandemic.” (*Id.* at 1). Additionally, Plaintiff lacks a legal education and law library access. (*Id.* at 1-2).

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). The test for exceptional

1 circumstances requires the court to evaluate the plaintiff's likelihood of
2 success on the merits and the ability of the plaintiff to articulate his claims
3 *pro se* in light of the complexity of the legal issues involved. *See Wilborn v.*
4 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Weygandt v. Look*, 718 F.2d
5 952, 954 (9th Cir. 1983).

6 First, circumstances common to most prisoners, such as lack of legal
7 education and limited law library access do not establish exceptional
8 circumstances that would warrant a request for voluntary assistance of
9 counsel. (ECF No. 24 at 2); *see e.g., Wood*, 900 F.2d at 1335-36 (affirming
10 denial of appointment of counsel where plaintiff lacked legal education and
11 had limited law library access); *Galvan v. Fox*, No. 2:15-cv-01798-KJM (DB),
12 2017 U.S. Dist. LEXIS 56280, at *23 (E.D. Cal. Apr. 12, 2017). Second, and
13 more importantly, the Court has recommended that Defendants' motion for
14 summary judgment be granted. (ECF No. 114). Accordingly, Plaintiff has
15 not demonstrated a likelihood of success on the merits and, therefore, has not
16 demonstrated exceptional circumstances to appoint counsel. *See Wilborn*,
17 789 F.2d at 1331. Based on the foregoing, the Court **DENIES** Plaintiff's
18 motion to appoint counsel.

19 **IT IS SO ORDERED.**

20 Dated: January 21, 2021



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22 Hon. Mitchell D. Dembin
23 United States Magistrate Judge
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