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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK WAYNE SPRINKLE,
Plaintiff,
v.
LEON ROBINSON, et al.,
Defendants.

No. 2:02-cv-1563-JAM-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He requests that the court appoint counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily to represent such a plaintiff. *See* 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, the 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). Having considered those factors, the court finds there are no exceptional circumstances in this case.

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1 The court previously appointed counsel to brief plaintiff's position on the impact of *Heck*
2 *v. Humphrey* on plaintiff's claim. ECF No. 159. That briefing concerned a complex legal issue
3 warranting the appointment of counsel. The issue has been resolved by the court, and thus the
4 exceptional circumstances justifying counsel's appointment are no longer present. Plaintiff's lack
5 of training in the law, incarceration, and unexplained medical and mental health issues do not
6 constitute exceptional circumstances. *See Lowe v. Dep't of Corr.*, No. CIV S-06-1623 LKK DAD
7 P, 2007 U.S. Dist. LEXIS 76929, at *8-10 (E.D. Cal. Oct. 1, 2007) ("Circumstances common to
8 most prisoners, such as lack of legal education and limited law library access, do not establish
9 exceptional circumstances that would warrant a request for voluntary assistance of counsel.").

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for appointment of
11 counsel (ECF No. 176) is denied.

12 DATED: September 11, 2017.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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