

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 reconsider its denial of his motion to appoint counsel. ECF No. 188. As the court’s prior order informed plaintiff, 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 again finds there are no exceptional circumstances in this case. While plaintiff urges that he is not trained in law and will

1 face difficulty in preparing for trial, this fact is shared by many, if not the majority, of indigent
2 prisoners. The issues that remain for trial in this case – the type and amount of damages plaintiff
3 may recover – do not present the degree of legal complexity that warrants appointment of
4 counsel.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for reconsideration of his
6 motion for appointment of counsel (ECF No. 188) is denied.

7 DATED: December 14, 2017.

8 
9 EDMUND F. BRENNAN
10 UNITED STATES MAGISTRATE JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28