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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ANTHONY R. TURNER,

No. 2:09-CV-3040-GEB-CMK-P

Plaintiff,

vs.

ORDER

CALIFORNIA FORENSIC MEDICAL  
GROUP, et al.,

Defendants.

\_\_\_\_\_/

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are several motions plaintiff has filed requesting the appointment of counsel (Docs. 83, 96, 102).

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). A finding of “exceptional circumstances” requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his

1 own in light of the complexity of the legal issues involved. See Terrell, 935 F.2d at 1017.  
2 Neither factor is dispositive and both must be viewed together before reaching a decision. See  
3 id.

4 In the present case, the court does not at this time find the required exceptional  
5 circumstances. First, the plaintiff has so far been able to adequately articulate his claims, which  
6 are not overly complex. Second, the undersigned has issued findings and recommendations that  
7 the defendants' motion to dismiss this action be granted, for plaintiff's failure to follow court  
8 orders and rules, and to adequately participate in the discovery process. As such, there does not  
9 appear to be any likelihood of success on the merits at this time.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the  
11 appointment of counsel (Docs. 83, 96, 102) are denied.

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13 DATED: March 26, 2014

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15 **CRAIG M. KELLISON**  
16 UNITED STATES MAGISTRATE JUDGE  
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