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

ANTHONY WILLIAMS,

Plaintiff,

No. 2:09-cv-3160 KJN P

vs.

SULLIVAN,

Defendant.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. Plaintiff requests that the court appoint counsel. This action is set for trial before the undersigned on August 19, 2013.


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 plaintiff’s 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)

1 (district court did not abuse discretion in declining to appoint counsel). The burden of
2 demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most
3 prisoners, such as lack of legal education and limited law library access, do not establish
4 exceptional circumstances that warrant a request for voluntary assistance of counsel.

5 Having considered the factors under Palmer, the court finds that plaintiff has
6 failed to meet his burden of demonstrating exceptional circumstances warranting the
7 appointment of counsel at this time. The issues left for trial are not particularly complex. While
8 the court is sympathetic to plaintiff's claim that he has a "history of mental disability learning
9 disorder," many prisoners who represent themselves at trial are not legally trained.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's June 10, 2013 motions
11 for the appointment of counsel (ECF Nos. 86 and 87) are denied without prejudice.

12 DATED: June 21, 2013

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KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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