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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHAI ALKEBU-LAN,
Plaintiff,
v.
K. DICKINSON, Warden, et al.,
Defendants.

No. 2:11-cv-0291 LKK KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, in this civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff requests, for the second time, appointment of counsel. The court denied plaintiff's prior request, filed on February 21, 2014, by order filed February 28, 2014. (ECF Nos. 50, 51.)

As this court previously explained, 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 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

1 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The
2 burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances
3 common to most prisoners, such as lack of legal education and limited law library access, do not
4 establish exceptional circumstances that warrant granting a request for voluntary assistance of
5 counsel.

6 The court denied plaintiff's previous request for appointment of counsel on the ground
7 that "[p]laintiff asserts no specific reasons in support of his request for appointment of counsel.
8 Plaintiff merely attaches a form letter from the White House, dated July 13, 2009, which states
9 that plaintiff is welcome to contact the President for 'help with a Federal agency.' (ECF No. 50
10 at 3.) ¶] Because plaintiff's request fails to meet any of the Palmer factors, the court finds that
11 plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the
12 appointment of counsel at this time." (ECF No. 51 at 2.)


13 Plaintiff now asserts that his instant request meets the "exceptional circumstances"
14 threshold because his complaint states a prima facie claim; plaintiff has made a good faith attempt
15 to retain counsel; he is indigent; and "plaintiff has an offer by the White House to provide him
16 with the federal agency that can represent him and expedite proceedings without delay or
17 hardship on the magistrate or district court judges." (ECF No. 52 at 1-3.)

18 Applying the factors identified in Palmer, 560 F.3d at 970, the court finds that plaintiff has
19 again failed to meet his burden of demonstrating "exceptional circumstances" warranting the
20 appointment of counsel at this time.

21 Accordingly, IT IS HEREBY ORDERED that plaintiff's second motion for appointment
22 of counsel (ECF No. 52) is denied without prejudice.

23 Dated: April 3, 2014

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE