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

10 LARRY W. KIRK,

11 Plaintiff,

No. 2:11-cv-0323 WBS EFB P

12 vs.

13 HEINRICH, et al.,


14 Defendants.

ORDER

15 _____/
16 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42
17 U.S.C. § 1983. He requests that the court appoint counsel. District courts lack authority to
18 require counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States*
19 *Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an
20 attorney to voluntarily to represent such a plaintiff. *See* 28 U.S.C. § 1915(e)(1); *Terrell v.*
21 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36
22 (9th Cir. 1990). When determining whether “exceptional circumstances” exist, the court must
23 consider the likelihood of success on the merits as well as the ability of the plaintiff to articulate
24 his claims pro se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560
25 F.3d 965, 970 (9th Cir. 2009). Having considered those factors, the court finds there are no
26 exceptional circumstances in this case.

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for appointment of
2 counsel, Dckt. No. 50, is denied.

3 DATED: January 15, 2013.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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