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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY W. KIRK,

 Plaintiff,

 v.

HEINRICH,

 Defendant.

No. 2:11-cv-323-WBS-EFB P

ORDER


Plaintiff is a former state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He requests appointment of counsel and an extension of time. For the reasons stated at the August 21, 2012 status conference, plaintiff’s request for an extension of time is denied as moot, and his request for appointment of counsel is also denied.

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 finds there are no exceptional circumstances in this case.

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Accordingly, IT IS HEREBY ORDERED that plaintiff's request for an extension of time (ECF No. 72) is denied as moot, and his request for appointment of counsel (ECF No. 71) is also denied.

DATED: August 27, 2013.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE