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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES C. JAMES,  
  
                                        Plaintiff,  
  
                                        v.  
  
FAGAN, et al.,  
  
                                        Defendants.

No. 2:11-cv-1527-TLN-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On August 21, 2013, the court denied plaintiff’s request for appointment of counsel. Plaintiff has now filed two documents, ECF Nos. 45 & 46, seeking reconsideration of the denial and “clarifying” his request for limited appointment of counsel.

As plaintiff was previously informed, 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).

1 Having once again considered those factors, the court still finds there are no exceptional  
2 circumstances in this case.

3 Plaintiff also “seek[s] direct funding from the court to pay deposition cost[s] and  
4 associated fees to court and deponents.” ECF No. 46-2. The expenditure of public funds on  
5 behalf of an indigent litigant is proper only when authorized by Congress. *Tedder v. Odel*, 890  
6 F.2d 210 (9th Cir. 1989). The in forma pauperis statute does not authorize the expenditure of  
7 public funds for witness fees, deposition costs and the like. *See* 28 U.S.C. § 1915.

8 Accordingly, IT IS HEREBY ORDERED that plaintiff’s request for reconsideration of  
9 appointment of counsel and request for funding to further litigate his case (ECF Nos. 45, 46) are  
10 denied. The court extends the filing deadline for plaintiff’s pretrial statement. Plaintiff shall file  
11 the statement within thirty days.

12 DATED: October 29, 2013.

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14 EDMUND F. BRENNAN  
15 UNITED STATES MAGISTRATE JUDGE  
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