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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 THOMAS JOHN HEILMAN,

12 Plaintiff,

13 v.

14 G.A. THUMSER, et al.,

15 Defendants.
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No. 2:11-cv-1907-MCE-EFB P

ORDER

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

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1 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for appointment of
2 counsel (ECF No. 116) is denied.

3 DATED: January 5, 2015.



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE