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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   LEE'THIEL PAYNE,   No. 2:11-cv-1970-TLN-EFB P

12   Plaintiff,

13   v.   ORDER

14   J. MARTIN, et al.,

15   Defendants.

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17   Plaintiff is a state prisoner proceeding without counsel in an action brought under 42

18   U.S.C. § 1983. In a motion titled, "motion for excusable neglect," plaintiff seeks the appointment

19   of counsel and "a reasonable amount of time to do research." ECF No. 105.

20   This matter is set for trial in July of 2016. ECF No. 92. It is not clear why plaintiff needs

21   more time to research, or what he intends to research. As there are no applicable deadlines to

22   extend, plaintiff's request for more time is denied as unnecessary.

23   Moreover, district courts lack authority to require counsel to represent indigent prisoners

24   in section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In

25   exceptional circumstances, the court may request an attorney to voluntarily to represent such a

26   plaintiff. *See* 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991);

27   *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether

28   "exceptional circumstances" exist, the court must consider the likelihood of success on the merits

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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.

Accordingly, IT IS HEREBY ORDERED that plaintiff's "motion for excusable neglect" (ECF No. 105), in which plaintiff seeks the appointment of counsel and "a reasonable amount of time to do research," is denied.

DATED: April 13, 2016.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE