1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 LEE THIEL PAYNE, No. 2:11-cv-1970-TLN-EFB P 12 Plaintiff. 13 **ORDER** v. 14 MARTIN, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 18 U.S.C. § 1983. He again requests that the court appoint counsel. As plaintiff has been previously 19 informed, see ECF Nos. 65, 80, district courts lack authority to require counsel to represent 20 indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 21 (1989). In exceptional circumstances, the court may request an attorney to voluntarily to 22 represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); Terrell v. Brewer, 935 F.2d 1015, 1017 23 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When 24 determining whether "exceptional circumstances" exist, the court must consider the likelihood of 25 success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of 26 the complexity of the legal issues involved. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). 27 Having considered those factors, the court still finds there are no exceptional circumstances in 28 this case.

1	Accordingly IT IS HEDE	EBY ORDERED that plaintiff's request for appointment of
		ED I ONDERED that plaintill s request for appointment of
2	counsel (ECF No. 97) is denied.	Almund F. Bieman
3	DATED: November 17, 2015.	EDMUND F. BRENNAN
4		UNITED STATES MAGISTRATE JUDGE
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