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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES HENRY FLOURNOY,
Plaintiff,

v.

SACRAMENTO COUNTY SHERIFF
DEP'T, et al.,
Defendants.

No. 2:11-cv-2844-KJM-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He requests the appointment of counsel, or in the alternative, an extension of time “to find counsel and reply to [the] court’s findings and recommendations.” ECF No. 183. Plaintiff’s motion is 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

1 involved. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Having considered those factors,
2 the court finds there are no exceptional circumstances in this case. Thus, the court declines to
3 appoint counsel in this case. Nor will the court grant plaintiff an extension of time for the
4 purpose of retaining counsel. Plaintiff, who commenced this action over six years ago, has had
5 ample time to find counsel.

6 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of
7 counsel or an extension of time to locate counsel (ECF No. 183) is denied. If plaintiff fails to file
8 objections to the court's September 25, 2017 findings and recommendation (ECF No. 175) within
9 45 days, the findings and recommendations will be submitted to the district judge for
10 consideration.

11 DATED: January 11, 2018.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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