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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLARENCE A. GIPBSIN,
Plaintiff,
v.
SCOTT KERNAN, et al.,
Defendants.

No. 2:12-cv-0556 GEB DAD P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel.

As the court recently advised plaintiff, the United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 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).

The test for exceptional circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances

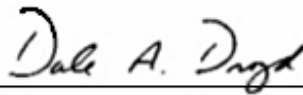
1 common to most prisoners, such as lack of legal education and limited law library access, do not
2 establish exceptional circumstances that would warrant a request for voluntary assistance of
3 counsel. In the present case, the court does not find the required exceptional circumstances.

4 Plaintiff has also filed a motion for a settlement conference. Plaintiff is advised that,
5 unless both parties in this case request this court to conduct a settlement conference, this court
6 will not order a court-supervised settlement conference until after it has ruled on any forthcoming
7 dispositive motions.

8 Accordingly, IT IS HEREBY ORDERED:

- 9 1. Plaintiff's motion for the appointment of counsel (Doc. No. 115) is denied; and
10 2. Plaintiff's motion for a settlement conference (Doc. No. 119) is denied.

11 Dated: August 20, 2015



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13 DALE A. DROZD
14 UNITED STATES MAGISTRATE JUDGE

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