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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JOSE GOMEZ,

No. 2:13-CV-0480-GEB-CMK-P

Plaintiff,

vs.

ORDER

SANDERS, et al.,

Defendants.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff seeks the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). A finding of “exceptional circumstances” requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his own in light of the complexity of the legal

1 issues involved. See Terrell, 935 F.2d at 1017. Neither factor is dispositive and both must be
2 viewed together before reaching a decision. See id.

3 In the present case, the court does not at this time find the required exceptional
4 circumstances. Although plaintiff indicates he has limited English skills, no legal knowledge,
5 and has received help with this case, plaintiff's filings thus far in this case have been reasonably
6 articulate and communicative. The facts alleged and the claims raised in this case are not of
7 substantial complexity. In addition, based on the issues raised in the pending motion to dismiss,
8 it does not appear that plaintiff has named the correct individuals and/or has a claim against the
9 individuals named as defendants. Based on the limited information before the court at this time,
10 including the exhibits plaintiff has submitted with his complaint, it does not appear that there is a
11 high likelihood of success on the merits of plaintiff's claims. Thus, plaintiff fails to show the
12 necessary exceptional circumstances required for the court to attempt appointment of counsel.

13 Plaintiff is also requesting additional time to respond to the pending motion to
14 dismiss. Good cause appearing therefor, plaintiff's request will be granted.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's request for the appointment of counsel (Doc. 25) is denied;
- 17 2. Plaintiff's request for additional time to respond to the pending motion to
18 dismiss (Doc. 24) is granted;
- 19 3. Plaintiff's shall file his opposition to the motion to dismiss within 30 days
20 of the date of this order.

21
22 DATED: January 13, 2015

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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