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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANK LEE DEARWESTER,
Plaintiff,
v.
SACRAMENTO COUNTY SHERIFF'S
DEPARTMENT,
Defendant.

No. 2:13-cv-2064 MCE DAD P

ORDER

Plaintiff has requested a second extension of time to file an opposition to defendant's October 7, 2014 motion to dismiss. Good cause appearing, the court will grant plaintiff's request.

Plaintiff has also filed a motion for 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. 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,

1 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
2 common to most prisoners, such as lack of legal education and limited law library access, do not
3 establish exceptional circumstances that would warrant a request for voluntary assistance of
4 counsel. In the present case, the court does not find the required exceptional circumstances.

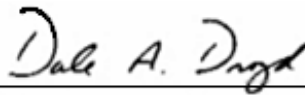
5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Plaintiff's motion for an extension of time (Doc. No. 24) is granted;

7 2. Plaintiff is granted thirty days from the date of service of this order in which to file an
8 opposition to defendant's motion to dismiss. Defendant shall file any reply in accordance with
9 Local Rule 230(1); and

10 3. Plaintiff's motion for appointment of counsel (Doc. No. 25) is denied.

11 Dated: January 6, 2015

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13 _____
14 DALE A. DROZD
15 UNITED STATES MAGISTRATE JUDGE

16 DAD:9
17 dear2064.36opp(2)