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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC MORA,

 Plaintiff,

 v.

CALIFORNIA CORRECTIONAL
CENTER, et. al.,

 Defendants.

No. 2:14-cv-0581-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He has paid the filing fee.

On December 11, 2015, the court granted plaintiff an extension of time to file a second amended complaint. ECF No. 11. On January 12, 2016, plaintiff filed a second amended complaint.¹ ECF No. 13. Thereafter, plaintiff filed a motion to appoint counsel, a motion for leave to proceed in forma pauperis, and a request for an extension of time to file a third amended complaint. ECF Nos. 14, 15, 16, 18. Plaintiff’s motions are addressed below.

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¹ However, the court cannot conduct the required screening of this complaint pursuant to 28 U.S.C. § 1915A because plaintiff did not sign it. *See* Fed. R. Civ. P. 11(a); E.D. Cal., Local Rule 183(a).

1 **I. Motion for Appointment of Counsel**

2 Plaintiff requests that the court appoint counsel. District courts lack authority to require
3 counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist.*
4 *Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney
5 to voluntarily to represent such a plaintiff. *See* 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935
6 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990).
7 When determining whether “exceptional circumstances” exist, the court must consider the
8 likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro
9 se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560 F.3d 965, 970
10 (9th Cir. 2009). Having considered those factors, the court finds there are no exceptional
11 circumstances in this case.

12 **II. Motion for Leave to Proceed In Forma Pauperis**

13 Plaintiff’s application makes the showing required by 28 U.S.C. § 1915(a)(1) and (2).
14 Accordingly, plaintiff’s request will be granted.

15 **III. Request for Extension of Time**

16 Plaintiff seeks leave to file a third amended complaint. Good cause appearing, plaintiff’s
17 request will be granted.

18 **IV. Summary of Order**

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Plaintiff’s motion for the appointment of counsel (ECF No. 14) is denied without
21 prejudice.
- 22 2. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 15) is granted.
- 23 3. Plaintiff’s request for an extension of time to file a third amended complaint (ECF
24 Nos. 16, 18) is granted. Plaintiff must file a third amended complaint within 30 days
25 from the date of this order. The complaint must bear the docket number assigned to
26 this case and be titled “Third Amended Complaint.” Failure to comply with this order
27 may result in dismissal of this action for failure to prosecute. If plaintiff files an

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amended complaint stating a cognizable claim the court will proceed with service of process by the United States Marshal.

Dated: March 9, 2016.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE