UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTOINE L. ARDDS,

Plaintiff,

v.

WILLIAM KNIPP, et al.,

Defendants.

No. 2:14-cv-960-KJM-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On October 16, 2015, plaintiff requested the court reconsider the denial of his October 7, 2015 request for appointment of counsel. Plaintiff states that he recently underwent surgery on his right hand and that it is difficult to write while recuperating and expects an additional period of recuperation after a follow-up procedure in the weeks to come.

As plaintiff was previously informed, 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 involved. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Having once again considered those factors, the court finds there are no exceptional circumstances in this case.

Accordingly, IT IS HEREBY ORDERED that plaintiff's request for reconsideration of his request for appointment of counsel (ECF No. 35) is denied. The court notes that plaintiff has propounded discovery, to which defendants have sought an extension of time to respond. Pursuant to the court's discovery and scheduling order, there are no impending deadlines for plaintiff to comply with. Should he need additional time, he may request a modification of the scheduling order on a showing of good cause.

DATED: October 22, 2015.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE