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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT WILLIAM TUNSTALL, JR.,  
Plaintiff,  
v.  
BRIAN DUFFY, et al.,  
Defendants.

No. 2:14-cv-2259-JAM-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel and in forma pauperis in an action brought under 42 U.S.C. § 1983. In addition to filing a complaint, plaintiff has filed an application to proceed in forma pauperis (IFP) pursuant to 28 U.S.C. § 1915 and three requests for appointment of counsel.<sup>1</sup>

Plaintiff’s IFP application makes the showing required by 28 U.S.C. § 1915(a)(1) and (2). Accordingly, by separate order, the court directs the agency having custody of plaintiff to collect and forward the appropriate monthly payments for the filing fee as set forth in 28 U.S.C. § 1915(b)(1) and (2).

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<sup>1</sup> In due course, the court will screen the complaint pursuant to 28 U.S.C. § 1915A.

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

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff’s application for leave to proceed in forma pauperis is granted and the Clerk  
12 shall terminate docket numbers 8, 9, and 10.
- 13 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected in  
14 accordance with the notice to the California Department of Corrections and  
15 Rehabilitation, filed concurrently herewith.
- 16 3. Plaintiff’s requests for the appointment of counsel (ECF Nos. 3, 11, 12) are denied  
17 without prejudice.

18 DATED: April 13, 2015.

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20 EDMUND F. BRENNAN  
21 UNITED STATES MAGISTRATE JUDGE  
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