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

DURRELL ANTHONY PUCKETT,
Plaintiff,
v.
A. AGBOLI, et al.,
Defendants.

No. 2:14-CV-2776-DAD-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s renewed motion for the appointment of counsel, ECF No. 137.

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

1 In Terrell, the Ninth Circuit concluded the district court did not abuse its discretion
2 with respect to appointment of counsel because:

3 . . . Terrell demonstrated sufficient writing ability and legal knowledge to
4 articulate his claim. The facts he alleged and the issues he raised were not
5 of substantial complexity. The compelling evidence against Terrell made it
6 extremely unlikely that he would succeed on the merits.

7 Id. at 1017.

8 In the present case, the Court does not at this time find the required exceptional
9 circumstances. Plaintiff states that appointment of counsel is warranted to assist him with jury
10 selection and cross-examination of witnesses at trial. See ECF No. 137. Plaintiff states that he is
11 not familiar with these procedures. See id. Plaintiff describes circumstances which are common
12 among indigent inmates whose cases are ready for trial. He does not describe any circumstances
13 which are extraordinary or exceptional. Further, a review of the docket reflects that the issues for
14 trial in this case are neither legally nor factually complex, and Plaintiff has demonstrated an
15 ability to articulate his claims sufficiently on his own.

16 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the
17 appointment of counsel and access to mental health records, ECF No. 137, is denied.

18 Dated: June 5, 2023



19 _____
20 DENNIS M. COTA
21 UNITED STATES MAGISTRATE JUDGE
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