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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES DAVID LOGAN, II,

No. 2:15-cv-00121 AC P

Plaintiff,

v.

ORDER

EVALYN HORWITZ, et al.,

Defendants.

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. On January 27, 2015, plaintiff was directed to submit an application to proceed in forma pauperis on the proper form. Plaintiff has now filed a request for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. ECF. No. 7. Plaintiff has not, however, filed a certified copy of his prison trust account statement for the six month period immediately preceding the filing of the complaint. See 28 U.S.C. § 1915(a)(2). Plaintiff will be provided the opportunity to submit the completed application and the certified copy in support of his application to proceed in forma pauperis.

Plaintiff has also requested the appointment of counsel. ECF. No. 8. 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 court may request the voluntary assistance of counsel

1 pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991);
2 Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

3 The test for exceptional circumstances requires the court to evaluate the plaintiff's
4 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in
5 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,
6 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
7 common to most prisoners, such as lack of legal education and limited law library access, do not
8 establish exceptional circumstances that would warrant a request for voluntary assistance of
9 counsel. In the present case, the court does not find the required exceptional circumstances.
10 Plaintiff's request for the appointment of counsel will therefore be denied.

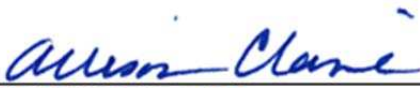
11 In accordance with the above, IT IS HEREBY ORDERED that:

12 1. Plaintiff shall submit, within thirty days from the date of this order, a certified copy of
13 his prison trust account statement for the six month period immediately preceding the filing of the
14 complaint. Plaintiff's failure to comply with this order will result in a recommendation that this
15 action be dismissed without prejudice;

16 2. The Clerk of the Court is directed to send plaintiff a new Application to Proceed In
17 Forma Pauperis By a Prisoner; and

18 3. Plaintiff's motion for the appointment of counsel (ECF No. 8) is denied.

19 DATED: February 10, 2015

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21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE
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