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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES E. GRIFFIN, II,
Plaintiff,
v.
DOROTHY DO-WILLIAMS, et al.,
Defendants.

No. 2:16-cv-1435 WBS CKD P
ORDER

Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. Plaintiff requests that the court appoint counsel. 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 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 plaintiff’s 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) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

1 Having considered the factors under Palmer, the court finds that plaintiff has failed to
2 meet his burden of demonstrating exceptional circumstances warranting the appointment of
3 counsel at this time.

4 Plaintiff has also filed a motion asking for the court to order officials at his prison to
5 provide plaintiff with access to his “legal” property. This motion will be denied and plaintiff is
6 informed again, as he was in an order dated April 10, 2018:

7 If, in the future, plaintiff is denied access to documents required by
8 him to pursue this action, plaintiff may file a motion seeking access.
9 In the motion plaintiff shall identify the documents required, why
 they are required, who is denying plaintiff access, and his attempts
 to obtain access.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff’s motion for the appointment of counsel (ECF No. 52) is denied.
- 12 2. Plaintiff’s motion asking for the court to order officials at his prison to provide plaintiff
13 with access to his “legal” property is denied.

14 Dated: May 15, 2018



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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