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

COREY JEROME ELDER,

Plaintiff,

v.

JOKSCH,

Defendant.

No. 2:16-CV-1925-TLN-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Before the Court is Plaintiff’s renewed motion for counsel. ECF No. 62.

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. In Terrell, the United States Court of Appeals for the Ninth Circuit concluded the district court did not abuse its

1 discretion with respect to appointment of counsel because:

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

5 Id. at 1017.

6 Beyond contentions in support of his underlying allegations, Plaintiff does not
7 present any exceptional circumstances warranting the appointment of counsel. Plaintiff's
8 unsupported motion is denied.

9 IT IS SO ORDERED.

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11 Dated: March 8, 2022



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13 DENNIS M. COTA
14 UNITED STATES MAGISTRATE JUDGE

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