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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TREMAYNE DEON CARROLL,
Plaintiff,
v.
SPEARMAN, et al.,
Defendants.

No. 2:17-cv-0862 DB P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel and an extension of time to file an amended complaint.

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 district court may request the voluntary assistance of counsel pursuant to 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).

The test for exceptional circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not

1 establish exceptional circumstances that would warrant a request for voluntary assistance of
2 counsel. In the present case, the court does not find the required exceptional circumstances. As
3 stated in the court's screening order filed on July 26, 2017, most or all of plaintiff's claims in this
4 case are duplicative of claims plaintiff raised in a prior case in this court.

5 In addition, plaintiff has requested an extension of time to file an amended complaint
6 pursuant to the court's order of July 26, 2017. Good cause appearing, IT IS HEREBY
7 ORDERED that:

- 8 1. Plaintiff's motion for the appointment of counsel (ECF No. 10) is denied;
- 9 2. Plaintiff's motion for an extension of time (ECF No. 10) is granted; and
- 10 3. Plaintiff is granted sixty days from the date of this order in which to file an amended
11 complaint.

12 DATED: August 16, 2017

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15 /s/ DEBORAH BARNES
16 UNITED STATES MAGISTRATE JUDGE
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