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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN JUSTIN BROWNLEE,  
Plaintiff,  
v.  
SCOTT JONES, et al.,  
Defendants.

No. 2:17-cv-0872 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

1 establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

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

5 Plaintiff has also requested a court-appointed investigator, large print material, and phone  
6 access. The expenditure of public funds on behalf of an indigent litigant is proper only when  
7 authorized by Congress. Tedder v. Odel, 890 F.2d 210 (9th Cir. 1989). The in forma pauperis  
8 statute does not authorize the expenditure of public funds for investigators or the other requested  
9 items. See 28 U.S.C. § 1915.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's request for the appointment of counsel (ECF No. 27) is denied; and
- 12 2. Plaintiff's request for an investigator, large print materials, and phone access (ECF No.  
13 27) is also denied.

14 Dated: April 11, 2018

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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