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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 DUANE PEYTON LINDER,

No. 2:17-cv-0943 EFB P

12 Plaintiff,

13 v.

ORDER


14 CALIFORNIA DEPARTMENT OF
15 CORRECTIONS AND
REHABILITATION,

16 Defendant.
17

18 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42
19 U.S.C. § 1983. He requests that the court appoint counsel. District courts lack authority to
20 require counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States*
21 *Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an
22 attorney to voluntarily to represent such a plaintiff. *See* 28 U.S.C. § 1915(e)(1); *Terrell v.*
23 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th
24 Cir. 1990). When determining whether “exceptional circumstances” exist, the court must
25 consider the likelihood of success on the merits as well as the ability of the plaintiff to articulate
26 his claims pro se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560
27 F.3d 965, 970 (9th Cir. 2009). Having considered those factors, the court finds there are no
28 exceptional circumstances in this case.

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for appointment of
2 counsel (ECF No. 15) is denied.

3 DATED: March 20, 2018.

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EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE