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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL TYRONE SHANNON,  
Plaintiff,  
v.  
DR. IKEGBU, et al.,  
Defendants.

No. 2:18-cv-0161-EFB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in an action brought under 42 U.S.C. § 1983. He requests appointment of counsel and a medical expert. As explained below, the requests are denied without prejudice.

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 to 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 the 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). Having considered those factors, the court finds there are no exceptional circumstances in this case.

1 Plaintiff also requests appointment of an expert for the purpose of assisting the trier of fact  
2 in understanding the evidence in this case. Federal Rule of Evidence 706 authorizes the court to  
3 appoint a neutral expert witness and apportion the fee among the parties. Where, as here, one  
4 party is indigent, the court has discretion to apportion the entire fee to the other side. *McKinney*  
5 *v. Anderson*, 924 F.2d 1500, 1511 (9th Cir. 1991), *vacated and remanded on other grounds by*  
6 *Helling v. McKinney*, 502 U.S. 903 (1991). At this early stage in the proceedings, however, there  
7 is no evidence before the court requiring interpretation. Accordingly, plaintiff's request is denied  
8 without prejudice as premature.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of  
10 counsel and an expert (ECF No. 14) is denied without prejudice. If plaintiff wishes to proceed  
11 with this action, he shall file an amended complaint within 30 days from the date of this order, in  
12 accordance with the court's February 27, 2019 screening order. Failure to so comply may result in  
13 a recommendation of dismissal.

14 DATED: May 23, 2019.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE