

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SIDNI ALFRED MOORE,  
Plaintiff,  
v.  
RICK HILL, et al.,  
Defendants.

No. 2:22-cv-0758 DJC AC P

ORDER

Plaintiff has filed a motion for the appointment of counsel and for an extension of time to file an amended complaint. ECF No. 22. The request for an extension of time will be granted. However, the request for counsel will not.

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).

“When determining whether ‘exceptional circumstances’ exist, a 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) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden

1 of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to  
2 most prisoners, such as lack of legal education and limited law library access, do not establish  
3 exceptional circumstances that would warrant a request for voluntary assistance of counsel.

4 Plaintiff requests appointment of counsel on the grounds that he lacks the necessary  
5 resources to proceed and does not understand what the court is asking him to do. ECF No. 22.  
6 Although plaintiff does not identify the resources he lacks, limited access to legal resources is a  
7 circumstance common to most prisoners. Furthermore, in screening the complaint, the court  
8 explained to plaintiff what kind of information plaintiff needed to provide to try and state claims  
9 for relief (ECF No. 21) and he has not shown that he has tried and been unable to follow the  
10 instructions provided. For these reasons, plaintiff has not shown the existence of extraordinary  
11 circumstances warranting the appointment of counsel.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's request for the appointment of counsel (ECF No. 22) is DENIED;
- 14 2. Plaintiff's request for an extension of time to file an amended complaint (ECF No. 22)  
15 is GRANTED; and
- 16 3. Plaintiff shall have thirty days from the service of this order to file an amended  
17 complaint.

18 DATED: August 28, 2024

19   
20 ALLISON CLAIRE  
21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24  
25  
26  
27  
28