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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID REYES,
Plaintiff,
v.
A. YOUNG, et al.,
Defendants.

No. 2:14-cv-2711 KJM CKD P

ORDER

On January 5, 2016, the undersigned issued findings and a recommendation that this action be dismissed for failure to timely file a Second Amended Complaint (“SAC”). (ECF No. 24.) Plaintiff filed objections to the findings and recommendations, along with a proposed SAC. (ECF Nos. 25 & 27.) Good cause appearing, the court will vacate its recommendation of dismissal and accept the SAC for screening.

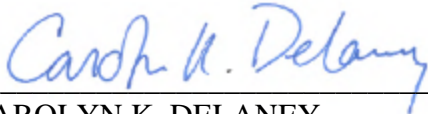
Plaintiff has also requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the 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). In the present case, the court does not find the required exceptional circumstances. Plaintiff’s request for the appointment of counsel will

1 therefore be denied.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The January 5, 2016 findings and recommendations are vacated;
- 4 2. This action shall proceed on the Second Amended Complaint (ECF No. 27); and
- 5 3. Plaintiff's request for the appointment of counsel (ECF No. 26) is denied.

6 Dated: February 4, 2016

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9 CAROLYN K. DELANEY
10 UNITED STATES MAGISTRATE JUDGE

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