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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH D. PROPHET,

Plaintiff,

vs.

1: 07 CV 1785 AWI WMW PC

ORDER RE MOTION (DOC 15)

KEN CLARK, et al.,

Defendants.

Plaintiff has filed a motion for stay pending the appointment of counsel, and a motion for 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 District Court for the Southern District of Iowa, 490 U.S. 296, 109 S.Ct. 1814 (1989).

In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(d). Terrell v. Brewer, 935 F.2d 1015 (9th Cir. 1990); Wood v. Housewright, 900 F.2d 1332 (9th Cir. 1990). In the present case, the court does not find the required exceptional circumstances.

Accordingly, plaintiff's request for the appointment of counsel should be denied. Plaintiff has not come forward with any grounds on which this action should be stayed.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the appointment of

1 counsel and motion for stay is denied.

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3 IT IS SO ORDERED.

4 **Dated:** February 5, 2009

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

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