

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**

EASTERN DISTRICT OF CALIFORNIA

SAUL BARRIOS PEREZ,

Plaintiff,

v.

DILL, et al.,

Defendants.

CASE NO. 1:07-cv-01794-LJO-SMS PC

ORDER DENYING PLAINTIFFS' MOTION FOR APPOINTMENT OF COUNSEL AND MOTION TO AMEND SCHEDULING ORDER

(ECF No. 66)

Plaintiff Saul Barrios Perez ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 3, 2011, the court issued a discovery and scheduling order. The order incorrectly stated the discovery cut-off date. On May 4, 2011, the court issued an amended order correcting the discovery cut-off date to January 3, 2012. On May 23, 2011, Plaintiff filed a motion for appointment of counsel and requested an extension of the discovery deadline. Since the scheduling order has been corrected, Plaintiff's request to amend the scheduling order is denied as moot.

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, 298, 109 S. Ct. 1814, 1816 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997). Without a reasonable method of securing and compensating counsel, this court will seek volunteer counsel only in the most serious and exceptional cases.

1 In the present case, the court does not find the required exceptional circumstances. See Rand,  
2 113 F.3d at 1525. Even if it is assumed that Plaintiff is not well versed in the law and that he has  
3 made serious allegations which, if proved, would entitle him to relief, his case is not exceptional.  
4 This court is faced with similar cases almost daily. Therefore, Plaintiff's request for the appointment  
5 of counsel shall be denied.

6 In accordance with the above, Plaintiff's motion for the appointment of counsel and request  
7 to amend the scheduling order, filed May 23, 2011, is HEREBY DENIED.

8 IT IS SO ORDERED.

9 **Dated:** May 26, 2011

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28