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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**SERGIO ALEJANDRO GÁMEZ,**  
  
Plaintiff,  
  
**v.**  
  
**F. GONZALEZ, et al.,**  
  
Defendants.

Case No. 08cv1113 MJL (PCL)  
**ORDER DENYING MOTION  
FOR APPOINTMENT OF  
EXPERT WITNESS**  
  
**(Doc. No. 26.)**

**INTRODUCTION**

Plaintiff Sergio Alejandro Gámez, a state prisoner proceeding *pro se* and *in forma pauperis*, filed a civil rights complaint under 42 U.S.C. § 1983 on April 1, 2009. (Doc. No. 13.) On April 29, 2010, Plaintiff filed a Motion for Appointment of an Expert Witness.<sup>1/</sup> (Doc. No. 26.) For the reasons set forth below, Plaintiff’s Motion for Appointment of Expert Witness is DENIED.

**DISCUSSION**

An expert witness may testify to help the trier of fact determine the evidence or a fact at issue. FED.R.EVID. 702. Federal courts have discretion to appoint expert witnesses, and parties may name witnesses to appoint. FED.R.EVID. 706(a),(d); Walker v. American Home Shield Long Term Disability Plan, 180 F.3d 1065, 1071 (9th Cir.1999). Although there is no definite rule to guide discretion, “[a]ppointment [of expert witnesses] may be appropriate when ‘scientific, technical, or other specialized knowledge will assist the trier of fact to understand the

<sup>1</sup> Although Plaintiff’s motion makes a “request for attorney fees (expert witness),” the body of the motion suggests the fees will be used to pay for “anticipated expert testimony,” not for legal services. Because Plaintiff is asking the Court to pay for expert testimony, the Court will review the motion as a Motion for Appointment of an Expert Witness.

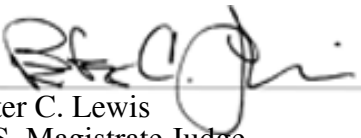
1 evidence or decide a fact in issue....” Levi v. Director of Corrections, 2006 WL 845733 (E.D.  
2 Cal. March 31, 2006) (citing Ledford v. Sullivan, 105 F.3d 354, 358-59 (7th Cir.1997).

3 Although Plaintiff is proceeding *in forma pauperis*, the court is not required to pay for  
4 such an appointed expert. The *in forma pauperis* (IFP) statute, 28 U.S.C. § 1915, does not waive  
5 the requirement of the payment of fees or expenses for witnesses in a § 1983 prisoner civil rights  
6 action. Dixon v. Ylst, 990 F.2d 478, 480 (9th Cir.1993). Moreover, “[r]easonably construed,  
7 [Rule 706] does not contemplate the appointment of, and compensation for, an expert to aid one  
8 of the parties.” Walker v. Woodford, 2008 WL 793413 (S.D. Cal., March 24, 2008) (citation  
9 omitted).

10 Based upon the foregoing, Plaintiff’s Motion for Appointment of an Expert Witness is  
11 DENIED.

12 **IT IS SO ORDERED.**

13 DATE: June 2, 2010

14   
15 Peter C. Lewis  
16 U.S. Magistrate Judge  
United States District Court

17 cc: The Honorable M. James Lorenz  
18 All Parties and Counsel of Record  
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