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

ALLEN B. WILLIAMS,

Plaintiff,

vs.

1: 09 CV 00468 OWW YNP SMS (PC)

ORDER RE MOTION (DOC 14)

MATTHEW CATE, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff has filed a motion styled as a motion for class certification. Though Plaintiff filed this action on his own behalf, he indicates his willingness to submit affidavits from proposed class members. Plaintiff, however, is a non-lawyer proceeding without counsel. It is well established that a layperson cannot ordinarily represent the interests of a class. See McShane v. United States, 366 F.2d 286 (9th Cir. 1966). This rule becomes almost absolute when, as here, the putative class representative is incarcerated and proceeding pro se. Oxendine v. Williams, 509 F.2d 1405, 1407 (4th Cir. 1975). In direct terms, plaintiff cannot "fairly and adequately protect the interests of the class," as required by Fed. R. Civ. P. 23(a)(4). See Martin v. Middendorf, 420 F.Supp. 779 (D.D.C. 1976). This action, therefore, will not be construed as a

1 class action and instead will be construed as an individual civil suit brought by plaintiff.

2           Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for class certification is  
3 denied.

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6 IT IS SO ORDERED.

7 **Dated:** September 10, 2009

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE

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