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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM NIBLE,

1:09-cv-01993-SMS-PC

Plaintiff,

v.

ORDER DENYING MOTION FOR THIS CASE
TO PROCEED AS A CLASS ACTION
(Doc. 2.)

KELLEY HARRINGTON, et al.,

Defendants.

_____ /

Plaintiff William Nible (“plaintiff”) is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on November 13, 2009. (Doc. 1.) Plaintiff seeks certification of this litigation as a class action. (Doc. 2.) 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). 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, shall not proceed as a class action and instead shall proceed as an individual civil suit brought by plaintiff.

Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for this case to proceed as a class action is DENIED.

IT IS SO ORDERED.

Dated: November 19, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE