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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BERNARD C. HUGHES,

1:09-cv-02249-GSA-PC

Plaintiff,

ORDER DENYING PLAINTIFF'S MOTION FOR
CERTIFICATION AS CLASS ACTION
(Doc. 15.)

v.

CITY OF MARIPOSA, et al.,

Defendants.

_____ /

Plaintiff Bernard C. Hughes ("Plaintiff") filed this action on December 29, 2009. Plaintiff seeks certification of this litigation as a class action. 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. See 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). Therefore, IT IS HEREBY ORDERED that Plaintiff's motion for certification of this litigation as a class action is DENIED

IT IS SO ORDERED.

Dated: February 17, 2010

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE