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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CAYETANO MELENDEZ,)	1:13-cv-00279-AWI-BAM (PC)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION
)	TO REAPPOINT COUNSEL WITHOUT
v.)	PREJUDICE
)	(ECF No. 21)
HUNT, et al.,)	
)	FOURTEEN-DAY DEADLINE
Defendants.)	
)	
)	

Plaintiff Cayetano Melendez (“Plaintiff”) is a prisoner proceeding in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 19, 2014, the Court appointed voluntary counsel for the limited purpose of drafting an amended complaint. On June 5, 2014, Plaintiff, through his limited appointment counsel, filed his second amended complaint. At that point, the appointment of counsel terminated.

On June 6, 2014, the Court screened the complaint pursuant to 28 U.S.C. § 1915A, and found that it stated cognizable claims against: (1) Defendant Hunt for excessive force, inhumane conditions of confinement and deliberate indifference to serious medical needs in violation of the Eighth Amendment; and (2) Defendants Arriola and Cruz for failure to intervene in violation of the Eighth Amendment. The Court instructed the Clerk of the Court to send Plaintiff USM-285 forms, summonses, a Notice of Submission of Documents form, an instruction sheet and a copy of the second amended complaint filed June 5, 2014. The Court ordered Plaintiff to complete the Notice of Submission of Documents and submit it to the Court within thirty days, along with

1 completed summonses, a USM-285 for each defendant, and four (4) copies of the endorsed
2 second amended complaint filed on June 5, 2014. (ECF No. 16.)

3 On July 28, 2014, Plaintiff submitted his Notice of Submission of Documents, which
4 included three summonses and three completed USM-285 forms. However, Plaintiff failed to
5 submit the required copies of the second amended complaint. (ECF No. 17.) On July 29, 2014,
6 the Court directed Plaintiff to submit four copies of the endorsed second amended complaint.
7 (ECF No. 18.) On August 4, 2014, Plaintiff reported that he twice attempted to mail forms to the
8 Court, including the summons and complaint, without success. Plaintiff also reported that he no
9 longer had copies. (ECF No. 19.) On August 7, 2014, the Court directed the Clerk of the Court
10 to send Plaintiff a copy of the second amended complaint and ordered Plaintiff to submit four
11 copies of the complaint for service. (ECF No. 20.)

12 On August 11, 2014, Plaintiff reported that he received information that the Court never
13 received his USM 285 forms. Plaintiff asserted that the prison was not sending them to the
14 Court. As such, Plaintiff now requests that the Court allow his limited appointment counsel to
15 continue with this case because the prison is losing his paperwork. (ECF No. 21.)

16 The Court has received Plaintiff's USM 285 forms, but has not received the required
17 copies of his second amended complaint. However, Plaintiff's reported difficulty with mailing
18 documents does not constitute exceptional circumstances warranting the appointment of counsel.
19 See Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997). Accordingly, Plaintiff's request to
20 reappoint counsel is HEREBY DENIED without prejudice.

21 Within fourteen (14) days following service of this order, Plaintiff shall either (1) provide
22 the Court with four copies of his second amended complaint; or (2) notify the Court in writing of
23 why he is unable to provide the copies.

24 IT IS SO ORDERED.

25 Dated: August 14, 2014

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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