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5 **UNITED STATES DISTRICT COURT**

6 EASTERN DISTRICT OF CALIFORNIA  
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9 DARRELL JUNIOR LESCALLETT, ) 1:13-cv-01342-LJO-BAM (PC)  
10 Plaintiff, )  
11 v. ) ORDER DENYING PLAINTIFF’S  
12 R. DIAZ, et al., ) REQUEST FOR APPOINTMENT OF  
13 Defendants. ) COUNSEL, WITHOUT PREJUDICE  
14 ) (ECF No. 41)  
15 )

16 Plaintiff Darrell Junior Lescallett (“Plaintiff”) is a state prisoner proceeding in forma  
17 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action currently proceeds  
18 on Plaintiff’s claims for retaliation in violation of the First Amendment against Defendants  
19 Gipson, Broomfield and Doe Defendants.

20 Currently before the Court is Plaintiff’s motion for the appointment of counsel. (ECF No.  
21 41.) The upper left-hand corner of the motion indicates it is filed by “Brandon Favor-El, Legal  
22 Assistant/Paralegal.” (*Id.* at 1.) The motion also indicates that Plaintiff has signed it with the  
23 understanding that it is true and correct. However, comparing the signature on this motion, (*Id.* at  
24 3), to prior filings in this case—including the complaint, (ECF No. 1, p. 3), and first amended  
25 complaint, (ECF No. 9, p. 15)—it is clear that the motion for the appointment of counsel was not  
26 signed by Plaintiff. It appears to possibly have been signed by the legal assistant/paralegal.

27 Federal Rule of Civil Procedure 11(a) requires that “[e]very pleading, written motion, and  
28 other paper must be signed by . . . a party personally if the party is unrepresented” and that the

1 court must strike an unsigned paper unless the omission is promptly corrected after being called  
2 to the party's attention. Fed. R. Civ. P. 11(a). The Local Rules also require that all pleadings and  
3 non-evidentiary documents shall be signed by a pro se party himself or herself, Local Rule  
4 131(b), and that a party appearing pro se put his or her name, address, and telephone number in  
5 the upper left-hand corner of the first page of each document presented for filing, Local Rule  
6 131(a).

7 The Court finds that Plaintiff's motion was not signed by him, and therefore the  
8 substance of his motion shall not being addressed. Plaintiff may re-file a properly signed motion  
9 with his information listed in the upper left-hand corner, if he wishes for his motion to be  
10 considered. The current motion shall be denied without prejudice.

11 Plaintiff is generally not prohibited from using the assistance of a legal assistant or  
12 paralegal in preparing filings. However, only he, or his attorney of record if he becomes  
13 represented by counsel, may sign pleadings, motions and other filings, as indicated by the  
14 Federal Rules of Civil Procedure and Local Rules.

15 Accordingly, it is HEREBY ORDERED that Plaintiff's motion for the appointment of  
16 counsel, (ECF No. 41), is DENIED, without prejudice.

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18 IT IS SO ORDERED.

19 Dated: September 6, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE