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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 KIPP ARON WOODS,

9 Plaintiff,

10 v.

11 SHANNON LESLIE MARTIN, et al.,

12 Defendants.
13

CASE No. 1:13-cv-01621-AWI-SAB

ORDER DENYING PLAINTIFF'S
MOTION TO DISMISS THE FILING FEE
AND MOTION FOR APPOINTMENT OF
COUNSEL

(ECF No. 15, 16)

14 Plaintiff Kipp Aron Woods, a state prisoner proceeding pro se and in forma pauperis, filed
15 this action on October 9, 2013. On March 6, 2014, this action was dismissed for failure to state a
16 claim. On November 24, 2014, Plaintiff filed a motion for an order dismissing the filing fee and a
17 motion for appointment of counsel.

18 Plaintiff seeks to have the order requiring him to make monthly payments pursuant to 28
19 U.S.C. § 1915(b)(1) vacated. Section 1915(b)(1) provides that “if a prisoner brings a civil action
20 or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing
21 fee.” Plaintiff filed this action and was granted leave to proceed in forma pauperis. The filing fee
22 in this action is due regardless of whether the action was ultimately dismissed for failure to state a
23 claim. Plaintiff’s motion to be relieved of the requirement that he pay the filing fee in this action
24 is denied.

25 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
26 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to
27 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for
28 the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in

1 certain exceptional circumstances the court may request the voluntary assistance of counsel
2 pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

3 In the present case, the court does not find the required exceptional circumstances. The
4 court has screened Plaintiff's amended complaint and found that he was attempting to pursue
5 claims against a defendant who is entitled to absolute immunity and a defendant who is not a state
6 actor. For these reasons, Plaintiff was unable to amend his complaint to state a cognizable claim.
7 Plaintiff's complaint has been dismissed for failure to state a claim and this action has been closed.
8 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is denied.

9 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for an order dismissing
10 the filing fee and motion for appointment of counsel are DENIED.

11 IT IS SO ORDERED.

12 Dated: December 1, 2014

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14 UNITED STATES MAGISTRATE JUDGE