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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTAY SCRUGGS,

Plaintiff,

No. 2:06-cv-0633 KJM KJN P

vs.

S. VANCE, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding without counsel and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has requested the appointment of counsel. The court has determined that this case may be appropriate for appointment of counsel.


The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, (1989). In certain exceptional circumstances, however, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015 (9th Cir. 1990); Wood v. Housewright, 900 F.2d 1332 (9th Cir. 1990). It appears exceptional circumstances may exist in this case. Therefore, this court will refer this case to the court’s Pro Bono Program for the appointment of counsel. If the program is able to obtain pro bono counsel to represent plaintiff, the court will issue an order appointing counsel.

1 Plaintiff is cautioned while the case is under review, he is responsible for  
2 prosecuting his action. The court is not staying the litigation pending the review; rather the  
3 review and continued processing of this case will take place at the same time. No scheduled  
4 dates in this litigation have been vacated.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's March 4, 2011 motion (dkt. no. 118) is partially granted;
- 7 2. This case is referred to the court's Pro Bono Program for the appointment of  
8 counsel;
- 9 3. The Pro Bono Program shall inform the court of their decision at their earliest  
10 convenience; and
- 11 4. The Clerk of the Court shall serve a copy of this order on the court's Pro Bono  
12 Program.

13 DATED: March 10, 2011

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16 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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