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

JOSEPH M. LEYVA,
Plaintiff, No. CIV S-08-0076 LKK KJM P
vs.
MORENO, et al.,
Defendants. ORDER

_____/

Plaintiff has requested the 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, 298 (1989). In certain exceptional circumstances, 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, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

Underlying plaintiff’s request is his description of the difficulties he has in gaining access to his central file, which contains documents he needs in connection with discovery and to litigate his case. Although these circumstances do not provide the exceptional circumstances necessary to support the appointment of counsel at this stage of the litigation, with time remaining for discovery, the court will request that counsel for defendant facilitate

1 plaintiff's access to his central file in a timely fashion so as to avoid unnecessary motion practice
2 with respect to central file access.

3 IT IS HEREBY ORDERED that:

4 1. Plaintiff's request for the appointment of counsel (Docket No. 46) is denied;

5 and

6 2. Counsel for defendant is requested to facilitate plaintiff's prompt access to his
7 central file.

8 DATED: December 8, 2010.

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U.S. MAGISTRATE JUDGE

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