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

ALEXANDER LEES,

Plaintiff,

No. CIV S 08-0196 LKK KJM

vs.

T. FELKER, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983 together with a request for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Plaintiff has not, however, filed his application for leave to proceed in forma pauperis on the form used by this district. Accordingly, plaintiff's application will be dismissed and plaintiff will be provided the opportunity to submit the application on the appropriate form.

Plaintiff is cautioned that he must also provide a certified copy of his prison trust account statement for the six month period immediately preceding the filing of his complaint.

Plaintiff has also 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

1 counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.
2 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the
3 court does not find the required exceptional circumstances. Plaintiff's request for the
4 appointment of counsel will therefore be denied.

5 In accordance with the above, IT IS HEREBY ORDERED that:

6 1. Plaintiff's application to proceed in forma pauperis (docket no. 2) is dismissed
7 without prejudice;

8 2. Plaintiff's request for the appointment of counsel (docket no. 3) is denied;

9 3. The Clerk of the Court is directed to send plaintiff a new Application to
10 Proceed In Forma Pauperis By a Prisoner; and

11 4. Plaintiff shall submit, within thirty days from the date of this order, a
12 completed application to proceed in forma pauperis. Plaintiff's failure to comply with this order
13 will result in a recommendation that this action be dismissed without prejudice.

14 DATED: February 8, 2008.

15 
16 U.S. MAGISTRATE JUDGE

17 /ab
18 lees0196.3d