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

CARLOS GILBERT LAW,

Plaintiff,

No. CIV S-08-0291 JAM EFB P

vs.

NORIEGA, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Pending before the court are the following motions filed by plaintiff: (1) requests for the relief sought in the complaint, *see* Dckt. Nos. 88, 95; (2) a motion for judgment on the pleadings, *see* Dckt. Nos. 89, 96; (3) a request that the court appoint counsel, *see* Dckt. Nos. 97, 98. For the reasons stated below, plaintiff’s motions are denied.

In due course, the court will issue a discovery and scheduling order that will govern these proceedings. The order will provide the parties with an opportunity to conduct discovery and file dispositive motions. Plaintiff has not shown he is entitled to the relief sought in the complaint, and, regardless, his request for such relief is premature.

Pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, a party may move for judgment on the pleadings “[a]fter the pleadings are closed.” Plaintiff’s motion, filed before defendants’ answer (Dckt. No. 95), is procedurally improper.

1 District courts lack authority to require counsel to represent indigent prisoners in
2 section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In
3 exceptional circumstances, the court may request counsel voluntarily to represent such a
4 plaintiff. 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood*
5 *v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). The court finds that there are no
6 exceptional circumstances in this case.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's September 13, 2011 motion for the relief requested in the complaint is
9 denied;
- 10 2. Plaintiff's September 16, 2011 motion for judgment on the pleadings is denied; and
- 11 3. Plaintiff's October 26, 2011 request for appointment of counsel is denied.

12 DATED: November 8, 2011.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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