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

WILLIAM BARKER,
Plaintiff, No. CIV S-08-1160 WBS KJM P
vs.
J. FOSTER, et al.,
Defendants. ORDER

_____/

Plaintiff is a state prisoner proceeding pro se with an action under 42 U.S.C. § 1983. He 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).

The court finds that appointment of counsel for plaintiff is warranted. Accordingly, Scottlynn (Scott) J. Hubbard, who has been selected from the court’s pro bono attorney panel and assented to represent plaintiff, shall be appointed. Both parties shall appear

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1 by counsel at the status hearing set by this order and be prepared to discuss how this matter
2 should proceed.

3 Plaintiff has moved for a ninety-day extension of the discovery deadline, arguing
4 that his placement in administrative segregation has impeded his ability to answer defendants'
5 discovery requests and conduct his own discovery. Defendants have stated no objection to
6 plaintiff's request, but they have moved for a thirty-day extension of the existing discovery
7 deadline. They seek to take plaintiff's deposition, which they represent will stand in lieu of
8 plaintiff's written responses to their discovery requests.

9 In light of the appointment of counsel for plaintiff, a sixty-day extension of the
10 discovery deadline is appropriate. The court will consider further extensions of the current
11 scheduling order (Docket No. 42) at the status conference set by this order.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Plaintiff's request for the appointment of counsel (Docket No. 51-2) is
14 granted.

15 2. Scottlynn (Scott) J. Hubbard is appointed counsel for plaintiff.

16 3. This matter is set for a status hearing at 10:00 a.m. on December 8, 2010,
17 before the undersigned in Courtroom #26. Both parties shall appear by counsel at the status
18 conference and shall be prepared to discuss how this matter should proceed.

19 4. Scott Hubbard shall notify Sujean Park at 916-930-4278, or via email at
20 spark@caed.uscourts.gov, if he has any questions related to the appointment.

21 5. Plaintiff's motion for an extension of the discovery deadline and other dates
22 set in the scheduling order (Docket No. 50) is granted in part and denied in part. The deadline
23 for conducting discovery is re-set to December 28, 2010. The request to extend all other
24 deadlines is denied.

25 6. Defendants' motion to extend the discovery deadline (Docket No. 53) is
26 granted.

1 7. Plaintiff's other motions to extend the discovery deadline (Docket Nos. 51-1
2 & 52) are duplicative and therefore moot.

3 8. The Clerk of the Court is directed to serve a copy of this order upon Scott
4 Hubbard, 12 Williamsburg Lane, Chico, California 95926.

5 DATED: November 3, 2010.

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9 U.S. MAGISTRATE JUDGE

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