

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

TRI NGUYEN,

Plaintiff,

No. 2:08-cv-2983 JAM JFM (PC)

vs.

JOSEPH BICK, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights complaint pursuant to 42 U.S.C. § 1983. On November 5, 2009, plaintiff filed a request for subpoenas, indicating he has been unable to locate witnesses for trial. However, this case has not yet been scheduled for trial, so his request for subpoenas is premature and will be denied.

Plaintiff is advised that he may attempt to locate witnesses through documents contained within his central file or discovery from defendants. For example, plaintiff may wish to serve interrogatories pursuant to Fed. R. Civ. P. 33.

On November 10, 2009, plaintiff 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

1 of 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 motion for the  
4 appointment of counsel will therefore be denied.

5 Plaintiff also requested an extension of time. However, plaintiff did not indicate  
6 what he needs an extension of time to do. At the present time, there are no imminent deadlines  
7 set in this case.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's November 5, 2009 request is denied without prejudice.
- 10 2. Plaintiff's November 10, 2009 motion for the appointment of counsel is  
11 denied.
- 12 3. Plaintiff's November 10, 2009 motion for extension of time is denied without  
13 prejudice.

14 DATED: November 23, 2009.

15  
16   
17 UNITED STATES MAGISTRATE JUDGE

18 /mp//001  
19 nguy2983.31(3)