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

JEFFREY E. WALKER,

Plaintiff,

No. CIV S-09-0642 WBS CKD P

vs.

A.H. WHITTEN, et al.,

Defendants.

ORDER

_____ /

Plaintiff has requested the appointment of counsel because he is going to be deposed by defendants. 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). Being subjected to a deposition by counsel for defendants is not an exceptional circumstance warranting appointment of counsel. Plaintiff’s request for the appointment of counsel will therefore be denied.

Also, plaintiff requests that the court set a date for defendants to be deposed. However, dates for depositions are established without court intervention unless it is necessary to

1 compel a party pursuant to Rule 37 of the Federal Rule of Civil Procedure to appear for a
2 deposition. Therefore, plaintiff's request will be denied.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's August 8, 2011 request for the appointment of counsel is denied.
- 5 2. Plaintiff's August 8, 2011 request that the court set a date for plaintiff to
6 depose defendants is denied.

7 Dated: August 17, 2011

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9 CAROLYN K. DELANEY
10 UNITED STATES MAGISTRATE JUDGE

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