

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

RICHARD H. GREENE,

Plaintiff,

No. 2:09-cv-0793 JFM (PC)

vs.

JAMES TILTON, et al.,

Defendants.

ORDER

_____/

Plaintiff 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). In the present case, the court does not find the required exceptional circumstances. Plaintiff’s request for the appointment of counsel will therefore be denied.

On October 6, 2009, plaintiff sought clarification of the court’s order filed May 29, 2009, which required plaintiff to file a status report within ninety days and defendants to file a status report thirty days thereafter (the entire briefing period consisted of 120 days). However,

1 in light of defendants' answer filed September 17, 2009, and the issuance of the October 14,
2 2009 scheduling order, the parties will be relieved of their obligation to file said status reports.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's October 6, 2009 request for the appointment of counsel (#17) is
5 denied.

6 2. Plaintiff's October 6, 2009 motion for clarification (#18) is granted.

7 3. The parties are relieved of their obligation to file status reports as set forth in
8 the court's May 29, 2009 order.

9 DATED: October 26, 2009.

10
11 
12 UNITED STATES MAGISTRATE JUDGE

13 /md/001
14 gree0793.31