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

RONALD BROOK,

Plaintiff,

No. CIV S-09-1364 GEB CKD P

vs.

V. SING, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. On October 26, 2011, plaintiff filed a motion stating that prison officials plan to transfer him to another prison, and seeking a court injunction preventing this transfer until plaintiff’s scheduled surgery takes place and/or “this case is settled.” (Dkt. No. 64.) Plaintiff’s motion for preliminary injunction has nothing to do with the operative claim in this case, concerning defendants’ alleged termination of plaintiff’s job assignment in retaliation for protected First Amendment activities. Thus plaintiff’s request for injunctive relief is beyond the scope of the case or controversy before this court. See Benyamini v. Manjuano, 2011 WL 4963108 (E.D. Cal. Oct. 18, 2011) (“This Court lacks jurisdiction to issue an order requiring prison officials to transfer [plaintiff] based on retaliatory acts occurring after this action was filed, because the Court does not have such a case or controversy before it in this action. [Citations.]”)

1 In the alternative to granting his motion to stop transfer, plaintiff requests the
2 appointment of counsel. The United States Supreme Court has ruled that district courts lack
3 authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United
4 States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court
5 may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v.
6 Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36
7 (9th Cir. 1990). In the present case, the court does not find the required exceptional
8 circumstances. Plaintiff's request for the appointment of counsel will therefore be denied.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's October 26, 2011 motion
10 to stop transfer and/or for the appointment of counsel (Dkt. No. 64) is denied.

11 Dated: November 9, 2011

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13 CAROLYN K. DELANEY
14 UNITED STATES MAGISTRATE JUDGE

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