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

NIKIANO MONTOYA,

Plaintiff,

No. CIV S-09-1580 CMK (TEMP) P

vs.

D. CHILDERS,

Defendant.

ORDER

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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.

The deadline for filing dispositive motions has passed with neither party seeking dismissal or summary judgment. Therefore, the court will direct the Clerk of Court to assign this case to a district judge. Deadlines for pretrial statements and a date for trial will issue as soon as

1 a district judge is assigned.

2 Accordingly, IT IS HEREBY ORDERED that:

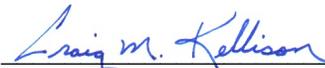
- 3 1. Plaintiff's request for the appointment of counsel (Docket No. 36) is denied.  
4 2. The Clerk of Court is directed to assign a district judge to this action.  
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8 DATED: March 14, 2011

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**CRAIG M. KELLISON**  
UNITED STATES MAGISTRATE JUDGE

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