

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

NIKIANO MONTOYA,

Plaintiff,

No. CIV S-09-1580 MCE CKD P

vs.

D. CHILDERS,

Defendant.

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 motion for the appointment of counsel will therefore be denied.

/////  
/////  
/////

1                   Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the  
2 appointment of counsel (Docket No. 45) is denied.

3                   Dated: October 16, 2011

4                     
5                   \_\_\_\_\_  
6                   CAROLYN K. DELANEY  
7                   UNITED STATES MAGISTRATE JUDGE

8  
9                   /mp  
10                  mont1580.31