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

TREVOR SHOPE,

Plaintiff,

No. 2:09-cv-2215 KJN P

vs.

VIVI JONES, R.N.,

Defendant.

ORDER

_____ /

On December 22, 2010, plaintiff filed a motion to retract the court’s December 3, 2010 order. Plaintiff states he was unaware he would have to amend his complaint to add a defendant, and plaintiff wishes to proceed on the September 15, 2009 amended complaint. Good cause appearing, plaintiff’s motion is granted. The December 3, 2010 order dismissing the amended complaint is vacated. (Dkt. No. 32.) Plaintiff is relieved of his obligation to file a second amended complaint. This action will proceed on plaintiff’s September 15, 2009 amended complaint. (Dkt. No. 8.) The scheduling order that issued on September 14, 2010, remains in effect. (Dkt. No. 25.)

Because plaintiff’s request to retract the order is granted, plaintiff’s alternative request for an extension of time to file an amended complaint need not be addressed.

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

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff's December 22, 2010 motion to retract is partially granted. (Dkt. No.
11 33.)
- 12 2. The December 3, 2010 order dismissing the amended complaint is vacated.
13 (Dkt. No. 32.) Plaintiff is relieved of his obligation to file a second amended complaint.
- 14 3. This action will proceed on plaintiff's September 15, 2009 amended complaint.
15 (Dkt. No. 8.)
- 16 4. Plaintiff's December 22, 2010 request for the appointment of counsel is
17 denied. (Dkt. No. 33.)

18 DATED: December 28, 2010

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21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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