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

MARLIN PENN,

Plaintiff,

No. 2:09-cv-2443 JFM (PC)

vs.

WARDEN MCDONALD, 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.

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1                   Accordingly, IT IS HEREBY ORDERED that plaintiff's December 22, 2009,  
2 request for the appointment of counsel is denied.

3 DATED: January 6, 2010.

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6 UNITED STATES MAGISTRATE JUDGE

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