

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

JAVIAD AKHTAR,

Plaintiff,

No. CIV S-09-2733 GGH P

vs.

J. MESA, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has requested the appointment of counsel. The court has determined that this case may be appropriate for 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, (1989). In certain exceptional circumstances, however, 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 (9th Cir. 1990); Wood v. Housewright, 900 F.2d 1332 (9th Cir. 1990). In this case the court is not sure whether those exceptional circumstances exist or not. Therefore, this court will refer this case to the civil rights panel in this district for review.

Plaintiff is cautioned while the case is under review, he has responsibility to

1 continue to prosecute his action. The court is not staying the litigation pending the review; rather
2 the review and continued processing of this case will take place at the same time. No scheduled
3 dates in this litigation have been vacated. Also, it may ultimately turn out that volunteer counsel
4 may not be procurable for plaintiff's case.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Counsel is directed to contact the Clerk's Office to make arrangements for
7 copies of the file; and

8 2. The Civil Rights Clinic shall inform the court of their decision at their earliest
9 convenience.

10 DATED: September 15, 2010

/s/ Gregory G. Hollows

11 _____
12 GREGORY G. HOLLOWES
13 UNITED STATES MAGISTRATE JUDGE

14 GGH:009
15 akht2733.crc
16
17
18
19
20
21
22
23
24
25
26