

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**

RICHARD C. OREMUS,

No. CIV S-09-2734-MCE-CMK-P

Plaintiff,

vs.

ORDER

CALIFORNIA HIGHWAY
PATROL, et al.,

Defendants.

_____/

Plaintiff, a state prisoner proceeding pro se, brings this civil action. Pending before the court is plaintiff's motion for appointment of counsel (Doc. 14). The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. See 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). See 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 at this time find the required exceptional circumstances.

Plaintiff also appears to raise objections to the undersigned's screening findings and recommendations stating he is unsure how to proceed with his claim if not in this court.

1 Plaintiff states he is unsure how to proceed based on the undersigned's findings that his
2 complaint fails to state a claim for which this court can grant relief. He claims that his state tort
3 action was improperly denied as untimely. However, bringing a separate action in this court is
4 not the proper remedy for appealing a state decision. As the undersigned stated in the findings
5 and recommendations, a request for relief from an untimely state tort action would be better filed
6 with the state as this court has no power to grant such relief. Plaintiff previously requested and
7 was granted additional time to file his objections, which are not currently due until August 30,
8 2010. He therefore may file any objections he has to the undersigned's findings and
9 recommendations on or before August 30, 2010.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the
11 appointment of counsel (Doc. 14) is denied.

12
13 DATED: August 11, 2010

14 
15 **CRAIG M. KELLISON**
16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26