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

JAMES LEROYE JEFFERSON,

Plaintiff,

No. CIV-S-09-3008 FCD KJM P

vs.

A. PEREZ, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed April 28, 2010, plaintiff's complaint was dismissed with leave to file an amended complaint. Plaintiff has now filed a third amended complaint.

The third amended complaint states cognizable First and Eighth Amendment claims under 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

Plaintiff has also 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

1 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of
2 counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.
3 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the
4 court does not find the required exceptional circumstances. Plaintiff's motion for the
5 appointment of counsel will therefore be denied.

6 In accordance with the above, IT IS HEREBY ORDERED that:

7 1. Service is appropriate for the following defendants: Perez, insofar as plaintiff
8 alleges that she told other inmates that plaintiff was a snitch; Providence, insofar as plaintiff
9 alleges that he falsified an interview and an investigation and kept plaintiff in ad-seg because
10 plaintiff refused to drop a 602 against defendant Pompey, and defendant Pompey, insofar as
11 plaintiff alleges that Pompey roughed him up.

12 2. The Clerk of the Court shall send plaintiff three USM-285 forms, one
13 summons, an instruction sheet and a copy of the amended complaint filed July 9, 2010.

14 3. Within thirty days from the date of this order, plaintiff shall complete the
15 attached Notice of Submission of Documents and submit the following documents to the court:

- 16 a. The completed Notice of Submission of Documents;
- 17 b. One completed summons;
- 18 c. One completed USM-285 form for each defendant listed in number 1
19 above; and
- 20 d. Four copies of the endorsed amended complaint filed July 9, 2010.

21 4. Plaintiff need not attempt service on defendants and need not request waiver of
22 service. Upon receipt of the above-described documents, the court will direct the United States
23 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
24 without payment of costs.

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5. Plaintiff's motion for the appointment of counsel (docket no. 33) is denied.

DATED: August 25, 2010.



U.S. MAGISTRATE JUDGE

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

JAMES LEROYE JEFFERSON,

Plaintiff,

No. CIV 09-3008 FCD KJM P

vs.

A. PEREZ, et al.,

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

- _____ completed summons form
- _____ completed USM-285 forms
- _____ copies of the _____
Amended Complaint

DATED:

Plaintiff