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

TONY AUSTIN GANT,

Plaintiff,

No. CIV S-09-3549 EFB P

vs.

SHASTA COUNTY DEPARTMENT
OF SOCIAL SERVICES, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff's consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

This is the court's third and final order instructing plaintiff that to proceed with this action he must submit a *completed* affidavit as required by 28 U.S.C. § 1915(a)(1). It is not sufficient for plaintiff merely to sign the affidavit without also responding to the questions asked therein.

Plaintiff has requested that the court appoint counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request

1 counsel voluntarily to represent such a plaintiff. 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935
2 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990).
3 The court finds that there are no exceptional circumstances in this case.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Within 30 days of the date this order is served, plaintiff must submit a *completed*
6 affidavit in support of his application to proceed in forma pauperis. Failure to comply with this
7 order will result in dismissal.

8 2. The Clerk of the Court is directed to mail to plaintiff a form application for leave to
9 proceed in forma pauperis.

10 3. Plaintiff's February 22, 2010 request for appointment of counsel is denied.

11 DATED: March 2, 2010.

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13 EDMUND F. BRENNAN
14 UNITED STATES MAGISTRATE JUDGE
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