

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**

HOWARD SCOTT,

No. CIV S-10-0372-CMK-P

Plaintiff,

vs.

ORDER

MENINA, et al.,

Defendants.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for appointment of counsel (Doc. 7).

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. While plaintiff has indicated that he has disabilities (specifically, blindness and a

1 learning disability), and such disabilities are confirmed by an apparent prison certification, it is
2 not apparent at this time that plaintiff's disabilities render him incapable of pursuing this action
3 without counsel. The court notes that the complaint, which is well-organized and fairly clear,
4 was filed without the assistance of counsel. Likewise, plaintiff has been able to submit other
5 documents to the court as well as successfully complete the in forma pauperis application process
6 without the assistance of counsel. In light of plaintiff's disabilities, however, the court will
7 entertain a future motion for appointment of counsel accompanied by a showing that plaintiff's
8 disabilities render it impossible for him to continue with this action on his own.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the
10 appointment of counsel (Doc. 7) is denied without prejudice.

11
12 DATED: February 10, 2011

13 
14 **CRAIG M. KELLISON**
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26