

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

BRIAN DARNELL EDWARDS,

Plaintiff,

No. 2:10-cv-1264 MCE JFM (PC)

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed June 9, 2010, plaintiff was directed to submit within thirty days either an application to proceed in forma pauperis or to pay the appropriate filing fee. The thirty day period has passed and plaintiff has done neither, although he has filed a first and second amended complaint, a request for issuance of summons, and two motions for appointment of counsel. Good cause appearing, plaintiff will be given one additional period of thirty days in which to comply with the court’s June 9, 2010 order. The action will not proceed further unless and until plaintiff complies with that order, and failure to comply will result in a recommendation that this action be dismissed.

As noted above, plaintiff has filed two motions for the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel

1 to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S.  
2 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary  
3 assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017  
4 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present  
5 case, the court does not find the required exceptional circumstances. Plaintiff's motions for the  
6 appointment of counsel will therefore be denied.

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

8 1. Plaintiff shall submit, within thirty days from the date of this order, either an  
9 affidavit in support of his request to proceed in forma pauperis on the form provided by the Clerk  
10 of Court, or the appropriate filing fee;

11 2. Failure to comply with paragraph 1 will result in a recommendation that this  
12 action be dismissed;

13 3. The Clerk of the Court is directed to send plaintiff a new Application to  
14 Proceed In Forma Pauperis By a Prisoner; and

15 4. Plaintiff's June 23, 2010 and June 25, 2010 motions for appointment of  
16 counsel are denied.

17 DATED: July 20, 2010.

18  
19   
20 UNITED STATES MAGISTRATE JUDGE

21 12  
22 edwa1264.31

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

BRIAN DARNELL EDWARDS,

Plaintiff,

No. 2:10-cv-1264 JFM (PC)

vs.

HIGH DESERT STATE PRISON,

et al.,

Defendants.

NOTICE OF SUBMISSION

OF FEE OR IFP APPLICATION

\_\_\_\_\_ /

Plaintiff hereby submits the following document in compliance with the court's  
order filed \_\_\_\_\_:

\_\_\_\_\_

In Forma Pauperis Application OR Filing Fee

DATED:

\_\_\_\_\_  
Plaintiff