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

ARMANDO HERRERA,

Plaintiff,

No. CIV S-10-1744 EFB P

vs.

GARDNER, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983.

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

Plaintiff has also submitted an affidavit requesting leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a)(1). Section 1915(a)(2) requires “a prisoner seeking to bring a civil action without prepayment of fees or security therefor, in addition to filing the affidavit

1 filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or  
2 institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing  
3 of the complaint . . . , obtained from the appropriate official of each prison at which the prisoner  
4 is or was confined.” Plaintiff has not submitted a certified copy of his trust account statement or  
5 the institutional equivalent. He may comply with this requirement by having prison officials  
6 complete the “Certificate” portion of the form application for leave to proceed *in forma*  
7 *pauperis*.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Plaintiff’s July 8, 2010 request for appointment of counsel is denied.

10 2. Plaintiff has 30 days from the date this order is served to submit the required trust  
11 account statement. Failure to comply with this order will result in a recommendation that  
12 this action be dismissed.

13 3. The Clerk of the court is directed to send to plaintiff a new form Application to  
14 Proceed In Forma Pauperis by a Prisoner.

15 DATED: July 19, 2010.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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