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

JERRY W. BAKER,

Plaintiff,

No. 2:10-cv-1811 KJM KJN P

vs.

SOLANO COUNTY, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel. On August 2, 2011, plaintiff filed a document entitled “Response to Court’s 7-5-11 Order.”¹ (Dkt. No. 41.) Plaintiff asks the court to explain “dispositive motion.” (Id. at 2.) As used in the court’s July 26, 2011 order, the “dispositive motion” usually filed in this type of action is a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. The motion for summary judgment is “dispositive” because if the motion for summary judgment is granted as to all claims for either party, the case is terminated and no trial is required, thus disposing of the action.

Plaintiff also claims he needs copies of all the discovery requests for which he was ordered to provide supplemental responses. Plaintiff is advised that it is his obligation to

¹ Plaintiff’s request to appeal the order for sanctions is construed as a request for reconsideration of the July 26, 2011 order, and is under consideration by the district court.

1 retain copies of documents in his case. This is particularly important for discovery requests and
2 responses because generally these documents are not filed with the court. For example, when
3 served with discovery requests, plaintiff should retain copies of the requests as well as copies of
4 his responses provided to defendants. On August 3, 2011, plaintiff filed a request for extension
5 of time based on his request to defendants to provide copies of the discovery requests to which
6 further responses are sought. Pro se litigants are not provided photocopies without charge even if
7 the litigant is proceeding in forma pauperis. However, in order to avoid further delay, the court
8 will provide plaintiff with copies of the discovery requests and responses that were provided in
9 connection with the motion to compel. (Dkt. No. 38.) Plaintiff should reference the court's July
10 26, 2011 order to determine which requests plaintiff is required to provide supplemental
11 responses. (Dkt. No. 40.) Plaintiff is cautioned that no further copies will be provided without
12 charge. Also, the court is not inclined to grant plaintiff any additional extensions of time.

13 Finally, plaintiff seeks appointment of counsel. The United States Supreme Court
14 has ruled that district courts lack authority to require counsel to represent indigent prisoners in
15 § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain
16 exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to
17 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v.
18 Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not
19 find the required exceptional circumstances. Therefore, plaintiff's request for the appointment of
20 counsel is denied.


21 Good cause appearing, IT IS HEREBY ORDERED that:

- 22 1. Plaintiff's August 3, 2011 motion for an extension of time is granted;
- 23 2. The Clerk of the Court shall send plaintiff a copy of discovery requests
24 appended to defendants' reply (Dkt. Nos. 38-2, 38-3, 38-4 and 38-5);
- 25 3. Plaintiff is granted twenty-one days from the date of this order in which to
26 comply with this court's July 26, 2011 order; and

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4. Plaintiff's August 2, 2011 request for appointment of counsel (dkt. No. 41) is denied.

DATED: August 8, 2011


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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