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

CLARANCE L. WILLIAMS,

Plaintiff,

No. CIV S-10-1873 DAD P

vs.

MATTHEW L. CATE, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983 together with a request for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. However, the certificate portion of the request which must be completed by plaintiff's institution of incarceration has not been filled out. Also, plaintiff has not filed a certified copy of his prison trust account statement for the six month period immediately preceding the filing of the complaint. See 28 U.S.C. § 1915(a)(2). Plaintiff will be provided the opportunity to submit a completed in forma pauperis application and a certified copy in support of his application.

In addition, plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298

1 (1989). In certain exceptional circumstances, the district court may request the voluntary
2 assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017
3 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

4 The test for exceptional circumstances requires the court to evaluate the plaintiff's
5 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in
6 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,
7 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
8 common to most prisoners, such as lack of legal education and limited law library access, do not
9 establish exceptional circumstances that would warrant a request for voluntary assistance of
10 counsel. In the present case, the court does not find the required exceptional circumstances.

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

12 1. Plaintiff shall submit, within thirty days from the date of this order, a
13 completed affidavit in support of his request to proceed in forma pauperis on the form provided
14 by the Clerk of Court;

15 2. The Clerk of the Court is directed to send plaintiff a new Application to
16 Proceed In Forma Pauperis By a Prisoner;

17 3. Plaintiff shall submit, within thirty days from the date of this order, a certified
18 copy of his prison trust account statement for the six month period immediately preceding the
19 filing of the complaint. Plaintiff's failure to comply with this order will result in a
20 recommendation that this action be dismissed without prejudice; and

21 4. Plaintiff's July 16, 2010 motion for appointment of counsel (Doc. No. 5) is
22 denied.

23 DATED: July 22, 2010.

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25 DAD:mp
will1873.3c+new+31

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE