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

MARLIN PENN,

Plaintiff,

No. CIV S-10-2256 FCD GGH (TEMP) P

vs.

McDONALD, et al.,

Defendants.

ORDER

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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 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 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 recently denied plaintiff’s first request for the appointment of counsel. As before, the court does not find the required exceptional circumstances to appoint him counsel. Plaintiff states in this motion that unnamed officials at High Desert State Prison have impeded his access to the court, but the record of this case shows that plaintiff has been able to communicate with the court on a regular basis. Moreover, even if plaintiff’s access to the court

1 were unreasonably impeded by prison officials, the remedy would be, in severe circumstances, a  
2 protective order or relief under the All Writs Act, not appointment of counsel. Plaintiff's motion  
3 for the appointment of counsel will therefore be denied.

4 Accordingly, IT IS HEREBY ORDERED that plaintiff's June 20, 2011 motion for  
5 the appointment of counsel (Docket No. 29) is denied.

6 DATED: June 28, 2011

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8 /s/ Gregory G. Hollows

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GREGORY G. HOLLOWS  
11 UNITED STATES MAGISTRATE JUDGE

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