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

DANIEL F. BORDEN, SR.,

Plaintiff,

No. 2:10-cv-2435 KJN P

vs.

R. GAUTIER, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel and in forma pauperis. Judgment was entered in this action on October 22, 2010. On December 2, 2010, plaintiff filed a document captioned “United States Court of Appeals for the Ninth Circuit,” and entitled “Appellant’s Brief: of Constitutional, Legal Factual Mistakes!!” (Dkt. No. 25.) Because plaintiff is proceeding without counsel, the undersigned construes this filing as a notice of appeal.¹ The Clerk of the Court is directed to process plaintiff’s appeal.

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

¹ It appears the appeal is untimely. Rule 4 of the Federal Rules of Appellate Procedure requires a notice of appeal in a civil action to be filed in the district court “within thirty days after the judgment . . . is entered.” Id.

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

7 Plaintiff has also requested leave to proceed in forma pauperis on appeal. Plaintiff
8 is advised that he continues to proceed in forma pauperis on appeal pursuant to the district
9 court's order issued July 14, 2010. (Dkt. No. 8.)

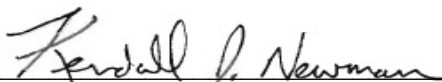
10 Finally, plaintiff is advised that this action is closed. Any further filings by
11 plaintiff will be disregarded and no orders will issue in response to future filings.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Plaintiff's December 2, 2010 filing (dkt. no. 25) is construed as a notice of
14 appeal, and the Clerk of the Court is directed to process the appeal to the Ninth Circuit.

15 2. Plaintiff's December 2, 2010 request for the appointment of counsel is denied.

16 DATED: December 14, 2010

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19 KENDALL J. NEWMAN
20 UNITED STATES MAGISTRATE JUDGE

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