

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ADAM SHARPE,

Plaintiff,

No. 2:10-cv-2484 JFM (PC)

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. §1983. By order filed November 10, 2010, the court determined that plaintiff's complaint stated a cognizable claim for relief against three defendants. The court also construed plaintiff's complaint as containing a request for injunctive relief in the form of an order requiring defendants to provide plaintiff with eye surgery and, in light of the allegations of the complaint, requested the California Attorney General to file, within thirty days, an informal response to that request. The Attorney General has not filed any response to the court's November 10, 2010 order. On December 14, 2010, the court ordered the United States Marshal to serve process on defendants. Good cause appearing, the court will again direct the California Attorney General to file an informal response to plaintiff's request for eye surgery.

////

1 On January 3, 2011, plaintiff filed a motion for the appointment of counsel. The
2 United States Supreme Court has ruled that district courts lack authority to require counsel to
3 represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296,
4 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance
5 of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.
6 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

7 The allegations of the complaint before the court appear sufficiently serious that if
8 supported by medical evidence the court might consider requesting the voluntary assistance of
9 counsel in this matter. Plaintiff's complaint is signed under penalty of perjury, but plaintiff has
10 not at this time tendered any evidence in support of his claims beyond the averments of the
11 complaint. Accordingly, plaintiff's request for appointment of counsel will be denied without
12 prejudice to its renewal at a later stage of these proceedings.

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

14 1. The Clerk of the Court is directed to reserve a copy of plaintiff's complaint and
15 a copy of this court's November 10, 2010 order, together with a copy of this order, on Monica
16 Anderson, Supervising Deputy Attorney General.

17 2. Within ten days from the date of this order, the California Attorney General
18 shall file and serve a response to the request for injunctive relief contained in plaintiff's
19 complaint; and

20 3. Plaintiff's January 3, 2011 motion for the appointment of counsel is denied.

21 DATED: January 31, 2011.

22
23 
24 UNITED STATES MAGISTRATE JUDGE

25 12/kly
26 shar2484.31