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

LETICIA-TYSHALLE REED,
on behalf of her son TYREE
BENNETT,

No. 2:10-cv-02574 KJN PS

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

ORDER

Defendant.

_____ /

On September 22, 2010, plaintiff, proceeding without counsel, filed a complaint challenging the Administrative Law Judge’s decision in an underlying social security administrative proceeding. (Dkt. No. 1.) Presently before the court is plaintiff’s motion to proceed in forma pauperis, or without payment of costs. (Dkt. No. 2.)

Plaintiff purports to bring this action on behalf of her minor son, Tyree Bennett. However, the Ninth Circuit Court of Appeals has plainly held that “a parent or guardian cannot bring an action on behalf of a minor child without retaining a lawyer.” Johns v. County of San Diego, 114 F.3d 874, 877 (9th Cir. 1997); accord Lin v. Ashcroft, 377 F.3d 1014, 1025 (9th Cir. 2004). The rationale for this rule is a protective one, and the Court of Appeals has stated that

1 where minors “have claims that require adjudication, they are entitled to trained legal assistance
2 so their rights may be fully protected.” Johns, 114 F.3d at 877.

3 Accordingly, plaintiff Leticia-Tyshalle Reed may not represent her minor son in
4 this action without counsel. Thus, the undersigned will grant plaintiff 30 days from the date of
5 this order to retain legal representation for Tyree Bennett, if she so chooses. Failure to retain a
6 licensed attorney to represent the minor plaintiff will result in a recommendation that this action
7 be dismissed without prejudice.

8 Accordingly, it is HEREBY ORDERED that:

9 1. Plaintiff Leticia-Tyshalle Reed may not represent the minor in this action
10 and must instead retain a lawyer to represent him. Plaintiff shall have 30 days from the date of
11 this order to retain legal representation for Tyree Bennett or this action will be dismissed without
12 prejudice;¹ and

13 2. Plaintiff’s application to proceed in forma pauperis (Dkt. No. 2.) is
14 DENIED without prejudice.

15 DATED: October 7, 2010

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18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE
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25 _____
26 ¹ If plaintiff acquires legal representation within this 30 day period, plaintiff’s counsel
must timely file a document with this court reflecting such representation.