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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL TENORE,
Plaintiff,
v.
NATHANAEL GOODGAME, et al.,
Defendants.

No. 2:11-cv-1082 WBS CKD P

ORDER

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). In the present case, the court does not find the required exceptional circumstances. Plaintiff's request for the appointment of counsel will therefore be denied.

Plaintiff has also requested an extension of the discovery deadline of May 11, 2013 as set forth in the amended scheduling order of January 8, 2013. A schedule may be modified upon a showing of good cause. Fed. R. Civ. P. 16(b). Good cause exists when the moving party demonstrates he cannot meet the deadline despite exercising due diligence. Johnson v. Mammoth

1 Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992); see also Fed. R. Civ. P. 56(d). Here plaintiff
2 has not shown diligence in conducting discovery and did not seek an extension of the deadline
3 until after the dispositive motion deadline had passed. Absent good cause, the court will deny
4 plaintiff's request.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Plaintiff's motion for the appointment of counsel and to extend discovery (ECF No.
7 45) is denied; and

8 2. Within thirty days of the date of this order, plaintiff shall file an opposition to the
9 motion for summary judgment or a statement of non-opposition. Failure to comply with this
10 order will result in a recommendation that this action be dismissed pursuant to Federal Rule of
11 Civil Procedure 41(b).

12 Dated: September 5, 2013



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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