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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID SMITH,

Plaintiff,

v.

KIESZ,

Defendant.

No. 2:11-cv-1918 JAM CKD P

ORDER

Plaintiff, a former state prisoner, proceeds pro se with a civil rights complaint filed pursuant to 42 U.S.C. § 1983. Several motions are pending.

Plaintiff has filed two motions to compel. (ECF Nos. 39, 41.) Defendant has requested a seven day extension of time to file an opposition to the motions. (ECF No. 49.) Good cause appearing, defendant’s motion will be granted.

Defendant’s motion for summary judgment is pending. (ECF No. 43.) Plaintiff has filed a motion for a 30 day extension of time to respond to the motion (ECF No. 50), and in addition, a motion to stay (ECF No. 46, 47) asking the court to “stay” defendant’s motion for summary judgment due to the unresolved discovery motions. Good cause appearing, plaintiff’s motions will be granted and plaintiff’s response to defendant’s motion for summary judgment will be due 30 days after this court resolves the two pending discovery motions (ECF Nos. 39, 41).

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1 Plaintiff has also requested the appointment of counsel. The United States Supreme Court has  
2 ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983  
3 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional  
4 circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. §  
5 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900  
6 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not find the required  
7 exceptional circumstances. Plaintiff's request for the appointment of counsel will therefore be  
8 denied.

9 Accordingly, IT IS HEREBY ORDERED that

- 10 1. Defendant's motion for extension of time (ECF No. 49) is GRANTED; defendant has  
11 up to and including June 18, 2013 to file an opposition to plaintiff's motions to  
12 compel.
- 13 2. Plaintiff's motion to stay (ECF No. 47) and motion for a 30 day extension of time  
14 (ECF No. 50) are GRANTED. Plaintiff's response to defendant's motion for  
15 summary judgment is due 30 days after this court resolves the two pending discovery  
16 motions.
- 17 3. Plaintiff's request for the appointment of counsel (ECF No. 42) is DENIED.

18 Dated: June 13, 2013

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21 CAROLYN K. DELANEY  
22 UNITED STATES MAGISTRATE JUDGE

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