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

ALTON E. DEAN,

Plaintiff,

No. 2:11-cv-2152 KJN P

vs.

E. WONG, et al.,

Defendants.

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. Therefore, plaintiff’s motion for the appointment of counsel is denied.

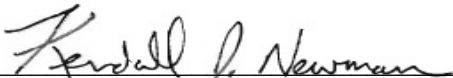
Plaintiff has also filed a motion for summary judgment. This motion is premature as no defendants have been served or otherwise appeared in this action. For this reason, plaintiff’s motion is denied without prejudice.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Plaintiff's August 12, 2011 motion for summary judgment (Dkt. No. 2) is
3 denied without prejudice;

4 2. Plaintiff's October 3, 2011 motion for the appointment of counsel (Dkt. No. 9)
5 is denied.

6 DATED: October 5, 2011

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9 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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