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

EVAN E. HANN,

Plaintiff,

No. 2:11-cv-3368 JFM (PC)

vs.

SACRAMENTO COUNTY
SHERIFF'S DEPARTMENT,
et al.,

Defendants.

_____/ ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff will be assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account

1 and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly
2 payments of twenty percent of the preceding month's income credited to plaintiff's prison trust
3 account. These payments will be forwarded by the appropriate agency to the Clerk of the Court
4 each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28
5 U.S.C. § 1915(b)(2).

6 Plaintiff's complaint states a cognizable claim for relief against unnamed
7 defendants pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the
8 complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this
9 action. However, the court cannot order service until plaintiff can identify defendants. To that
10 end, plaintiff has filed a motion for discovery. Good cause appearing, the court will serve a copy
11 of plaintiff's complaint and his motion for discovery on the Sacramento County Counsel and
12 order a response to said motion.

13 On March 15, 2012, plaintiff filed a motion for the appointment of counsel. The
14 United States Supreme Court has ruled that district courts lack authority to require counsel to
15 represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296,
16 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance
17 of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.
18 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the
19 court does not find the required exceptional circumstances. Plaintiff's request for the
20 appointment of counsel will therefore be denied without prejudice to its renewal, as appropriate,
21 at a later stage of these proceedings.

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

- 23 1. Plaintiff's request for leave to proceed in forma pauperis is granted.
- 24 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.

25 Plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.
26 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the

1 Director of the California Department of Corrections and Rehabilitation filed concurrently
2 herewith.

3 3. The Clerk of the Court is directed to serve a copy of plaintiff's complaint and
4 plaintiff's December 19, 2011 motion for discovery on Robert J. Ryan, Sacramento County
5 Counsel, 700 H Street, Suite 2650, Sacramento, CA 95814.

6 4. Within thirty days from the date of this order, Sacramento County Counsel
7 Ryan or his designee shall file and serve a response to plaintiff's motion for discovery.

8 5. Plaintiff's March 15, 2012 motion for appointment of counsel is denied
9 without prejudice..

10 DATED: March 23, 2012.

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12 
13 UNITED STATES MAGISTRATE JUDGE

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