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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

D. CARROLL,  
Plaintiff,  
v.  
WILLIAM KNIPP, et al.,  
Defendants.

No. 2:13-cv-0215 LKK CKD P

ORDER

On November 4, 2013, the court recommended that this action be dismissed because plaintiff had not filed an opposition to defendant Hientschell’s motion to dismiss. Plaintiff has now filed his opposition. Therefore, the court’s recommendation will be vacated.

Also, 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.

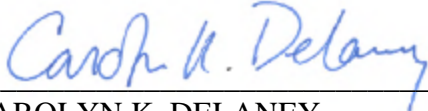
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Accordingly, IT IS HEREBY ORDERED that:

1. The court's November 4, 2013 recommendation that this action be dismissed is vacated;
2. Defendant Hientschell is granted until November 15, 2013 to file a reply to plaintiff's opposition to defendant Hientschell's motion to dismiss; and
3. Plaintiff's request for the appointment of counsel (ECF No. 25) is denied.

Dated: November 5, 2013

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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