UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD LOPEZ,

Plaintiff,

v.

J. KRIEG, et al.,

Defendants.

No. 2:13-cv-1176 KJM AC P

ORDER

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff's June 12, 2013 complaint, ECF No. 1, was served on defendants W. Feitcher, J. Krieg, and T. McDow whose response is now due on or before January 31, 2014. See ECF No. 31 (order granting extension of time). Service on defendant L.D. Zamora was returned unexecuted. ECF No. 25. Currently pending before the court are plaintiff's "motion with the exception of the court to file [a] claim letter under Rule 26(f)" and a motion to appoint counsel. ECF Nos. 28, 29.

In his motion to file a claim under Rule 26(f), plaintiff seeks "to settle [this] dispute without having to [engage in] further litigation" and asks the court to grant him the relief requested in his complaint. ECF No. 28 at 1-2. Plaintiff does not identify any legal authority for this request. Since defendants have not even filed a response to the complaint yet, plaintiff's motion is premature. Therefore, the court will deny the motion.

Plaintiff has additionally requested the appointment of counsel. ECF No. 29. 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.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to file a claim letter (ECF No. 28) and request for the appointment of counsel (ECF No. 29) are denied.

DATED: December 17, 2013

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE