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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH LAVERY,

Plaintiff,

v.

B. DHILLON, et al.

Defendants.

No. 2:13-cv-2083 MCE AC P

ORDER

Plaintiff has requested the appointment of counsel to assist him with opposing defendant Dhillon’s motion for summary judgment. ECF No. 214. In the motion, plaintiff also informs the court of a change of address. Presumably as a result of the move, he does not have access to the legal documents he needs to respond to defendant’s motion for summary judgment. See generally id. at 1.

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. The court will,

1 however, also construe plaintiff's motion as a request for an of time to file his opposition to  
2 defendant's motion for summary judgment. That request will be granted.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's request for the appointment of counsel (ECF No. 214) is DENIED; and
- 5 2. Plaintiff shall have thirty days from the date of this order within which to file his  
6 opposition to defendant's motion for summary judgment. Failure to file an opposition within the  
7 time allotted may result in a recommendation that defendant's motion for summary judgment be  
8 granted.

9 IT IS FURTHER ORDERED that the Clerk of Court shall re-serve the following  
10 documents on plaintiff at his new address:

- 11 1. The court's service order dated December 24, 2014 (ECF No. 36), and
- 12 2. The court's March 2, 2020 order directing plaintiff to file an opposition to defendant  
13 Dhillon's motion for summary judgment (ECF No. 212).

14 DATED: March 9, 2020

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16 ALLISON CLAIRE  
17 UNITED STATES MAGISTRATE JUDGE  
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