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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE DEJESUS RODRIGUEZ,
Plaintiff,
v.
VERONICA VEGA,
Defendant.

No. 2:15-cv-0158 GGH PS

ORDER

This action was voluntarily dismissed on December 22, 2015.¹ On August 18, 2016, plaintiff filed a document which the court has now construed as a motion for relief from judgment under Federal Rule of Civil Procedure 60(b). (ECF No. 36.) Defendant has filed a response; however, plaintiff has not filed a reply. Pursuant to plaintiff’s recent filings which indicate that he is now incarcerated at San Joaquin County Jail, and needs extra time in which to respond to filings, he will be granted an extension in which to file a reply to defendant’s response. (ECF No. 40.)

Plaintiff has also 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

¹ This action is before the undersigned pursuant to the parties’ consent to proceed before a magistrate judge. 28 U.S.C. § 636(c).

1 exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to
2 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v.
3 Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not find
4 the required exceptional circumstances. Plaintiff's request for the appointment of counsel will
5 therefore be denied.

6 In his letter filed September 22, 2016, plaintiff additionally complains of how he is being
7 treated while at San Joaquin County Jail, and that he is not being medically treated for a left
8 elbow injury. (ECF No. 42.) Plaintiff is advised that he may not litigate these new matters in the
9 instant case, but may file a new civil rights action under 42 U.S.C. § 1983 as he sees fit.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's request for extension of time in which to file a reply to defendant's response
12 to his Rule 60(b) motion, (ECF No. 40), is granted.
- 13 2. Plaintiff is granted thirty (30) days from the date of this order in which to file a reply.
- 14 3. Plaintiff's request for the appointment of counsel, (ECF No. 40), is denied.
- 15 4. The Clerk of the Court is directed to send plaintiff the form for filing a civil rights
16 action under 42 U.S.C. § 1983 by a prisoner.

17 Dated: October 17, 2016

18 /s/ Gregory G. Hollows
19 UNITED STATES MAGISTRATE JUDGE

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