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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE PEREZ, III.,
Plaintiff,
v.
L. SCMIDT,
Defendant.

No. 2:15-cv-0521 CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has not, however, filed an in forma pauperis affidavit or paid the required filing fee of \$350.00 plus the \$50.00 administrative fee.¹ See 28 U.S.C. §§ 1914(a), 1915(a). Plaintiff will be provided the opportunity either to submit the appropriate affidavit in support of a request to proceed in forma pauperis or to submit the required fees totaling \$400.00.

In addition, 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

¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the filing fee but will be allowed to pay it in installments. Litigants proceeding in forma pauperis are not required to pay the \$50.00 administrative fee.

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


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

6 1. Plaintiff shall submit, within thirty days from the date of this order, an affidavit in
7 support of his request to proceed in forma pauperis on the form provided by the Clerk of Court, or
8 the required fees in the amount of \$400.00; plaintiff's failure to comply with this order will result
9 in a recommendation that this action be dismissed;

10 2. The Clerk of the Court is directed to send plaintiff a new Application to Proceed In
11 Forma Pauperis By a Prisoner; and

12 3. Plaintiff's motion for the appointment of counsel (ECF No. 2) is denied.

13 Dated: March 12, 2015



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15 CAROLYN K. DELANEY
16 UNITED STATES MAGISTRATE JUDGE

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