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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONNELLE McCLAIN, on behalf of  
IMHOTEP SALAT,

Plaintiff,

v.

MARY STRAND, et al.,

Defendants.

No. 2:15-cv-2009 KJM CKD PS

ORDER

This action was filed by plaintiff’s guardian<sup>1</sup> in propria persona on behalf of plaintiff. An incompetent person can only proceed if represented by counsel. See Johns v. County of San Diego, 114 F.3d 874 (9th Cir. 1997) (citations omitted) (“It goes without saying that it is not in the interest of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected.”). Plaintiff will therefore be granted thirty days to obtain counsel. Failure to timely obtain counsel will result in a recommendation that the action be dismissed without prejudice.

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<sup>1</sup> Attached to the complaint are several exhibits purportedly filed in the Eighth Judicial District Court of the State of Nevada in and for the County of Clark which allegedly demonstrate that Donnelle McClain has been appointed guardian for Imhotep Salat due to his incompetence.

1 Plaintiff has filed an in forma pauperis affidavit in which he states that he receives  
2 monthly Social Security benefits in the amount of \$1,181. Pursuant to federal statute, a filing fee  
3 of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a).  
4 In addition, a \$50.00 general administrative fee for civil cases must be paid. 28 U.S.C. § 1914(b).  
5 The court may authorize the commencement of an action “without prepayment of fees and costs  
6 or security therefor, by a person who makes affidavit that he is unable to pay such costs or give  
7 security therefor.” 28 U.S.C. § 1915(a). The amount of plaintiff’s monthly income shows that  
8 plaintiff is able to pay the filing fee and costs. Thus, plaintiff has made an inadequate showing of  
9 indigency. See Alexander v. Carson Adult High Sch., 9 F.3d 1448 (9th Cir. 1993); California  
10 Men’s Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991); Stehouwer v. Hennessey, 841 F.  
11 Supp. 316, (N.D. Cal. 1994). Plaintiff will therefore be granted fourteen days in which to submit  
12 the appropriate fees to the Clerk of the Court. Plaintiff is cautioned that failure to pay the filing  
13 and general administrative fees in the amount of \$400 will result in a recommendation that the  
14 application to proceed in forma pauperis be denied and the instant action be dismissed without  
15 prejudice.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Within fourteen days, plaintiff shall pay the filing and general administrative fees in  
18 the amount of \$400.
- 19 2. Within thirty days, plaintiff shall obtain counsel. Failure to comply with this order  
20 shall result in a recommendation that the action be dismissed without prejudice.

21 Dated: September 25, 2015

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24 CAROLYN K. DELANEY  
25 UNITED STATES MAGISTRATE JUDGE