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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CARLOS ANTHONY
HAWTHORNE II,

Plaintiff,

v.

R. AYERS, JR.; A. COTA; R. W.
FOX; J. PICKETT; D. LEE; T. HOLT;
S. ROBINSON; and R. CRUZ;

Defendant.

No. C 08-1473 WHA (PR)

**ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL; RULINGS**

This is a civil rights case filed pro se by a state prisoner. He has filed a motion for "appointment" of counsel.

There is no constitutional right to counsel in a civil case. *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981). 28 U.S.C. § 1915 confers on a district court only the power to "request" that counsel represent a litigant who is proceeding in forma pauperis. 28 U.S.C. § 1915(e)(1). This does not give the courts the power to make "coercive appointments of counsel." *Mallard v. United States Dist. Court*, 490 U.S. 296, 310 (1989). In short, the Court has only the power to ask pro bono counsel to represent plaintiff, not the power to "appoint" counsel.

Plaintiff is capable of presenting his claims effectively, and the issues, at least at this stage, are not complex. The motion (document number 16 on the docket) is **DENIED**.

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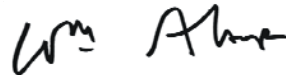
Plaintiff's motion to extend the time to amend (document number 15 on the docket) is **GRANTED**. The amendment is deemed timely.

Plaintiff has been granted leave to proceed in forma pauperis ("IFP"), but even when proceeding IFP prisoners must pay the filing fee by way of deductions from income to their trust accounts. *See* 28 U.S.C. § 1915(b)(2). Plaintiff has filed a motion asking to be relieved of this obligation. First, there is no obvious legal basis for the Court to waive the statutory requirement. Secondly, plaintiff's contention that he should not be required to pay because he is indigent is without merit, because payments are only required when the prisoner has income to his or her inmate account. The motion (document number 18) is **DENIED**.

The order granting leave to proceed IFP entered on October 14, 2008, is amended nunc pro tunc to show the date it was signed as being in 2008, rather than 2007. The clerk shall send a copy of this order to Tomekia Mitchell, Account I Supervisor, Inmate Trust Office, San Quentin State Prison.

IT IS SO ORDERED.

Dated: December 22, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE