UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Rocky Mel Contreras,

Plaintiff,
vs.

(1) DENYING LEAVE TO PROCEED IN FORMA PAUPERIS

Omar Vazquez; USCG Sector San Diego,
Defendant.

CASE NO. 09cv1267 - IEG - CAB

ORDER

(1) DENYING LEAVE TO PROCEED IN FORMA PAUPERIS

(2) DENYING AS MOOT MOTION FOR APPOINTMENT OF COUNSEL

On June 10, 2009, Plaintiff filed this action pursuant to 42 U.S.C. § 1983 action, a motion to proceed *in forma pauperis*, and a motion for appointment of counsel. [Doc. Nos. 1 - 3.] Having reviewed Plaintiff's submissions, the Court DENIES Plaintiff's motions.

LEGAL STANDARD

All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$350. See 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999).

DISCUSSION

The Court has reviewed Plaintiff's affidavit of assets and finds he is able to pay the fees or post securities required to maintain this action. Plaintiff lists substantial monthly income from unemployment insurance – more than ten times the filing fee – supplemented by income from various

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other sources. [Doc. No. 2.] Accordingly, the Court DENIES Plaintiff's application to proceed in forma pauperis and directs Plaintiff to pay the filing fee within twenty days of the filing of this order. The Court cautions Plaintiff that a failure to pay the filing fee will result in dismissal of the action. As for the motion for appointment of counsel, the Court DENIES THE MOTION WITHOUT PREJUDICE because the motion is moot. Plaintiff may renew the motion upon payment of the \$350 filing fee. **CONCLUSION** For the foregoing reasons, the Court DENIES Plaintiff's motions. IT IS SO ORDERED. DATED: August 6, 2009 **United States District Court**