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9	UNITED STATES DISTRICT COURT		
10	SOUTHERN DISTRICT OF CALIFORNIA		
11	ANTHONY RASHAD JOHNSON,	CASE NO. 10cv2184-MMA (MDD)	
12	Plaintiff, vs.	ORDER GRANTING IN PART AND DENYING IN PART	
13	¥8.	PLAINTIFF'S MOTION TO AMEND AND FOR	
14	CALIFORNIA DEPARTMENT OF	APPOINTMENT OF COUNSEL	
15	CORRECTIONS; E.J. PIMENTAL, Correctional Officer; KULODROVIC,	[Doc. No. 11]	
16	Correctional Sergeant; SANCHEZ, Correctional Officer,		
17	Defendants.		
18	On Ostahan 10, 2010, Anthony Dashad Jahnson ("Disintiff"), measading up, as and in		
19	On October 19, 2010, Anthony Rashad Johnson ("Plaintiff"), proceeding <i>pro se</i> and <i>in</i>		
20	<i>forma pauperis</i> , filed a civil rights complaint under 42 U.S.C. § 1983. (Doc. No. 1). On		
21	September 29, 2011, Plaintiff filed a Motion to Amend his Complaint and to Request Civil		
22	Counsel. (Doc. No. 11).		
23	1. Amendment of Plaintiff's Complaint		
24	Plaintiff requests that the Court grant him leave to amend his Complaint so that he may add		
25	claims arising under the Fourteenth Amendment. (Doc. No. 11 at 2). Plaintiff also wishes to		
26	assert new claims against the California Department of Corrections, an entity listed as a defendant		
27	in his original complaint, but dismissed from the suit <i>sua sponte</i> in a November 24, 2010 Order.		
28	(Doc. No. 4).		

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No responsive pleading has been filed yet by the Defendants and Plaintiff may amend his Complaint as a matter of course. Fed. R. Civ. Proc. 15(a). Plaintiff's Motion is **GRANTED** as to amendment of his Complaint.

## It is further **ORDERED**:

1) The Clerk of the Court is directed to docket the Plaintiff's First Amended Complaint, attached to his Motion as Exhibit One.

2) The Clerk shall issue a summons as to Plaintiff's First Amended Complaint upon all 7 named Defendants except the California Department of Corrections, which remains terminated 8 from this action, and shall forward it to Plaintiff along with a blank U.S. Marshal Form 285 for 9 each Defendant. In addition, the Clerk shall provide Plaintiff with a certified copy of this Order 10 and a certified copy of his Complaint and the summons so that he may serve Defendants. Upon 11 receipt of this "IFP Package," Plaintiff is directed to complete the Form 285s as completely and 12 accurately as possible, and to return them to the United States Marshal according to the 13 instructions provided by the Clerk in the letter accompanying his IFP package. Upon receipt, the 14 U.S. Marshal shall serve a copy of the Amended Complaint and summons upon Defendants as 15 directed by Plaintiff on the USM Form 285s. All costs of service shall be advanced by the United 16 States. See 28 U.S.C. § 1915(d); Fed. R. Civ. Proc. 4(c)(3). 17

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## 2. Appointment of Counsel

There is no right to counsel in cases brought under 42 U.S.C. § 1983. Wilborn v. 19 Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th 20Cir. 1984). Counsel may be appointed only in "exceptional circumstances." Wilborn, 789 F.2d at 21 1331. In order to demonstrate exceptional circumstances, the court must evaluate both plaintiff's 22 likelihood of success on the merits and the plaintiff's ability to articulate his claims in light of the 23 complexity of the legal issues involved. Id. Plaintiff requests counsel because he has had 24 difficulty receiving mail from the Court in the past and wishes "to avoid any more 25 miscommunications in this civil litigation." (Doc. No. 11 at 2). Plaintiff's claim does not show 26 his likelihood of success on the merits nor his inability to articulate his claims. Furthermore, 27 Plaintiff filed a Change of Address with the Court (Doc. No. 9) which appears to have corrected 28

1	his difficulty receiving mail. Accordingly, Plaintiff's Motion is <b>DENIED</b> as it pertains to
2	appointment of counsel.
3	IT IS SO ORDERED.
4	DATED: October 6, 2011
5	11+ Current 1:
6	Hon. Mitchell D. Dembin
7	U.S. Magistrate Judge
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