



1 *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) ("[T]he provisions of 28 U.S.C. §  
2 1915(e)(2)(B) are not limited to prisoners").

3 The one-page complaint raises a medical malpractice claim based on allegedly  
4 negligent treatment Plante received at UCSD Medical Center in San Diego. It also alleges  
5 staff at Plaintiff Stone's school exhibited cruelty towards Stone and Plante, and false rumors  
6 were circulated about Plante. Although the complaint names the United States as a  
7 defendant, it makes no allegations at all against the United States. The body of the  
8 complaint mentions Defendants Gomez, Gaddis, and Brenner, who are not named in the  
9 caption. Defendant Gomez is identified as a primary care physician at the hospital, and  
10 Brenner is identified as an attorney. Gaddis is not otherwise identified.

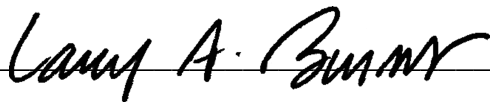
11 Plaintiffs are not bringing claims against the United States. Even if they were given  
12 leave to amend to name Gomez, Gaddis, Brenner, the hospital, or hospital staff as  
13 Defendants, this Court wouldn't have jurisdiction to adjudicate these claims. The claims don't  
14 arise under federal law, the parties are not diverse, and no other basis for the Court's  
15 exercise of jurisdiction appears reasonably possible.

16 The Court also notes that two other cases Plante brought in this district, *Plante v.*  
17 *Gomez, et al.*, 09cv1217-H (POR) and *Plante v. Gomez et al.*, 10cv1130-H (POR), were  
18 dismissed for lack of jurisdiction, and the judgments in both cases are now final.

19 This action is therefore **DISMISSED WITHOUT PREJUDICE BUT WITHOUT LEAVE**  
20 **TO AMEND**. The motion for appointment of counsel is **DENIED AS MOOT**.

21 **IT IS SO ORDERED.**

22 DATED: February 24, 2011

23   
24 **HONORABLE LARRY ALAN BURNS**  
25 United States District Judge

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