

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

DAVID SAFIDI CAUTHEN, JR.,

Plaintiff,

v.

RIVERA et al.,

Defendants.

Case No. 1:12 cv 01747 LJO DLB (PC)

**ORDER REQUIRING DEFENDANTS TO  
FILE STATUS REPORT REGARDING  
RETURN OF PLAINTIFF'S PROPERTY**

Plaintiff David Safidi Cauthen, Jr. ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on October 26, 2012. The action is proceeding on (1) excessive force in violation of the Eighth Amendment against Defendants Rivera, Negrete, Northcutt, Arreola, King and Waddle; (2) unreasonable search in violation of the Fourth and Eighth Amendments against Defendants Rivera, Negrete and Waddle; (3) deliberate indifference to a serious medical need in violation of the Eighth Amendment against Defendant Mackey; and (4) violation of the First Amendment and RLUIPA against Defendants Rivera, Negrete and Waddle.

On August 22, 2013, Defendants Arreola, Mackey, Negrete, Northcutt, Rivera and Waddle filed a motion to dismiss. The motion is currently pending.

On September 26, 2013, Plaintiff filed a request that this Court order Warden Biter to locate and ship his personal property to his new place of incarceration. Plaintiff had only recently been

1 transferred, and filed the request prior to receiving responses to his informal and formal appeals.  
2 Plaintiff indicated that his legal property was necessary to allow him to file an opposition to  
3 Defendants' Motion to Dismiss.

4 On October 3, 2013, Plaintiff filed his opposition and did not indicate that his legal property  
5 had not been returned. Therefore, the Court denied his motion as moot.

6 On November 18, 2013, Plaintiff filed a motion to reconsider the Court's October 3, 2013,  
7 ruling. Plaintiff states that as of November 14, 2013, he continues to be without his property. He  
8 also believes that his ability to file a proper opposition was prejudiced as a result.

9 Therefore, Defendants' counsel, as an officer of this Court, is ORDERED to contact  
10 Plaintiff's current and/or former place of incarceration to determine the status of his property.  
11 Counsel SHALL file a status report with this Court within fourteen (14) days of the date of service  
12 of this order.

13  
14 IT IS SO ORDERED.

15 Dated: November 21, 2013

/s/ Dennis L. Beck  
16 UNITED STATES MAGISTRATE JUDGE