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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DAVID SAFIDI CAUTHEN, JR.,	)	1:12cv01747 DLB PC
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF’S
	)	MOTION FOR COUNSEL
vs.	)	
	)	(Document 76)
RIVERA, et al.,	)	
	)	
Defendants.	)	

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Plaintiff David Safidi Cauthen, Jr., (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. On August 24, 2015, he filed a motion for the appointment of counsel.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional circumstances exist, the district court must evaluate both the likelihood of success

1 of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the  
2 complexity of the legal issues involved." Id. (internal quotation marks and citations omitted).

3 This case is set for trial on January 5, 2016. Plaintiff argues that because he is  
4 incarcerated, he will be less likely to prevail. This, however, is not a sufficient reason to appoint  
5 counsel. Plaintiff's case is not exceptional, and based on a review of the record in this case, the  
6 Court does not find that Plaintiff cannot adequately articulate his claims. Id.

7 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is HEREBY  
8 DENIED, without prejudice.

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10 IT IS SO ORDERED.

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12 Dated: August 27, 2015

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