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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FLOYD ESPEY,  
  
                                Plaintiff,  
  
                    v.  
  
DEUEL VOCATIONAL INSTITUTION,  
et al.,  
  
                                Defendants.

No. 2:13-cv-2147 TLN KJN P

ORDER

Plaintiff is a former state prisoner, proceeding without counsel, in an action brought under 42 U.S.C. § 1983. This action is set for jury trial before the Honorable Troy L. Nunley on August 29, 2016.

Under 28 U.S.C. § 1915(c)(1), district courts are granted discretion to appoint counsel for indigent persons. However, this discretion may be exercised only under “exceptional circumstances.” Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional circumstances requires the evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Neither of these factors is dispositive and both must be viewed together before reaching a decision.” Id.

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Having considered the factors above, the court finds that plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of counsel (ECF No. 106) is denied.

Dated: March 31, 2016

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE