

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

WENDELL CURRIN,  
Plaintiff,

vs.

Case No.: 3:22cv20350/MCR/ZCB

TIMOTHY BEAVERS, et al.,  
Defendants.

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**ORDER**

Plaintiff is an inmate of the Florida Department of Corrections proceeding *pro se* and *in forma pauperis* in this civil rights action. Presently before the Court is Plaintiff's Motion for Appointment of Counsel. (Doc. 81).

The Court denied Plaintiff's previous motions for appointment of counsel (Docs. 26, 55). Since that time, there has been a material change in circumstances. The case is heading for trial, and Defendants have been slow in providing Plaintiff with discovery. Plaintiff has requested the appointment of counsel to assist him in preparing for trial. (*Id.* at 2). He states that his close management custody status significantly limits

his access to resources needed to prepare. (*Id.*). He also states that trial will involve conflicting testimony that will require the skill of counsel to present evidence and cross-examine witnesses. (*Id.*).

The Court ordinarily does not have authority to **require** an attorney to represent an indigent civil litigant. See *Maitland v. The United States District Court for the S.D. Iowa*, 490 U.S. 296, 301–02 (1989). Thus, the Court will deny Plaintiff's motion to the extent that he is requesting that the Court order an attorney to represent him. The Court will, however, **request** that an attorney appear to represent Plaintiff under 28 U.S.C. § 1915(e)(1). Under this authority, the Court will direct the Clerk of Court to issue a notice to all attorneys registered with the Court's electronic filing system, inviting an attorney to voluntarily represent Plaintiff. **Plaintiff is advised, however, that this request does not guarantee him representation in this case; and he must continue to prosecute this case himself unless and until counsel appears on his behalf.**

Accordingly, it is **ORDERED**: Plaintiff's Motion for Appointment of Counsel (Doc. 81) is **DENIED**. However, the Clerk of Court is directed

to issue a notice to all attorneys registered with the Court's electronic filing system, and publish on the Court's website, the notice soliciting a volunteer attorney set forth below. The notice must state:

This is a notice of an opportunity to provide *pro bono* representation in the case of *Currin v. Beavers, et al.*, Case No. 3:22cv20350/MCR/ZCB.

Plaintiff is an inmate of the Florida Department of Corrections, currently housed at Florida State Prison. Plaintiff seeks relief under 42 U.S.C. § 1983 against three correctional officers at Walton Correctional Institution for an alleged use of excessive force on February 21, 2022 (*See* Doc. 1). Plaintiff alleges he suffered a broken finger and damage to vision in his right eye. Plaintiff seeks compensatory and punitive damages.

All three Defendant officers have appeared in this case, and the Court issued a scheduling order. (Doc. 17). Discovery is completed, and none of the parties filed dispositive motions. The Court set deadlines for the parties' pre-trial materials. A settlement conference will be scheduled after those materials are filed.

Public funds are not available for the payment of attorney fees. Fees may be recoverable under applicable law if Plaintiff ultimately prevails. *See* 42 U.S.C. §2000e; *Christiansburg Garment Co. v. Equal Emp't Opportunity Comm'n*, 434 U.S. 412, 417 (1978). Limited funds are sometimes available from the District's Bench and Bar Fund for the payment of out-of-pocket expenses incurred by an attorney providing representation of this type.

Members of the District's bar will be afforded access to the electronic docket without charge for the purpose of considering whether to undertake the representation. An attorney who wishes to provide representation may contact the Clerk's office to obtain Plaintiff's contact information and may enter the case by filing a notice of appearance after obtaining Plaintiff's consent to the representation.

**DONE AND ORDERED** this 23rd day of January 2024.

/s/ Zachary C. Bolitho

Zachary C. Bolitho

United States Magistrate Judge