

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

LEONARD GULBRONSON,

Plaintiff,

v.

CASE NO. 1:19-cv-156-AW-GRJ

CLINT ANDERSON, et al.,

Defendants.

_____ /

ORDER

Pending before the Court is Plaintiff's Motion Requesting Appointment of Counsel. ECF No. 77. Plaintiff, a prisoner in the custody of the Florida Department of Corrections, is proceeding *pro se* and *in forma pauperis* in this civil rights action. The Court has denied Defendant James Anderson's motion for summary judgment as to Plaintiff's Eighth Amendment "failure to intervene" claim, ECF No. 80, and the parties are scheduled to appear before the undersigned for a settlement conference on August 3, 2021. Should the parties not settle this case at the settlement conference, the Court will promptly schedule a jury trial in Gainesville, Fla.

The Court cannot compel an attorney to represent a party, such as Plaintiff, in a civil case. *Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296, 301 (1989). The undersigned, however, may "request an

attorney to represent any person unable to afford counsel.” 28 U.S.C. § 1915(e)(1) (emphasis added). Only exceptional circumstances warrant the exercise of this authority, such as where the legal issues are so novel or complex as to require the assistance of a trained practitioner. *Bass v. Perrin*, 170 F.3d 1312, 1320 (11th Cir. 1999); *Fowler v. Jones*, 899 F.2d 1088, 1096 (11th Cir. 1990).

The Court concludes it is appropriate at this juncture to solicit a volunteer attorney to represent Plaintiff. Plaintiff’s motion for the appointment of counsel is due to be granted to the extent the undersigned will direct the Clerk to disseminate a public notice requesting an attorney represent Plaintiff in this matter on a *pro bono* basis. Plaintiff is advised that in the meantime he must proceed with this case *pro se* and will not be granted any extensions of time based upon the Court’s notice seeking representation.

Accordingly, it is **ORDERED**:

1. Plaintiff’s Motion Requesting Appointment of Counsel, ECF No. 77, is **GRANTED** to the extent described above.
2. The **Clerk** must disseminate to all attorneys registered with the Court’s electronic filing system, and publish on the Court’s website, a notice soliciting a volunteer attorney to represent Plaintiff in this matter. The notice must state as follows:

This is a notice of an opportunity to provide *pro bono* representation in a trial and all matters leading up to trial in

Leonard Gulbranson v. Clint Anderson, et al., No. 1:19-cv-156-AW-GRJ (N.D. Fla.). Plaintiff is an inmate in the custody of the Florida Department of Corrections. Pursuant to 42 U.S.C. § 1983, he raises an Eighth Amendment excessive force claim against Defendant Clint Anderson and an Eighth Amendment “failure to intervene” claim against Defendant James Anderson. The factual basis for Plaintiff’s claims is provided in the February 23, 2021, report and recommendation denying Defendant James Anderson’s motion for summary judgment. ECF No. 76.

In short, Plaintiff alleges that on August 23, 2017, Defendants entered his home in Chiefland, Fla., to arrest him. Plaintiff says that after Defendant James Anderson “slung him to the ground on his stomach,” he was not resisting arrest, being verbally abusive, or threatening law enforcement. Plaintiff says that Defendant Clint Anderson proceeded to straddle over his back, yelled threats at him for approximately 30 seconds to a minute, “jammed his service pistol into Plaintiff’s temple,” and contemporaneously struck the top rear portion of Plaintiff’s head with his pistol, causing Plaintiff to lose consciousness. Plaintiff further alleges that Defendant James Anderson remained standing on Plaintiff’s left side and did not leave the room during the above-described conduct by Defendant Clint Anderson.

The parties are scheduled to appear before the undersigned for a settlement conference on August 3, 2021, at 11:00 a.m. An attorney who wishes to provide representation may contact Plaintiff directly and may enter the case by filing a notice of appearance as soon as possible, but no later than July 27, 2021, if the attorney wishes to participate in the settlement conference. Plaintiff is currently confined at Marion Correctional Institution. Plaintiff’s DC Number is 337265. Should an attorney volunteer to represent Mr. Gulbranson, the undersigned will entertain any necessary motion to continue the settlement conference, pretrial deadlines, or a trial upon a showing of good cause.

Public funds are not available for the payment of attorney’s fees. Fees in a limited amount may be recoverable under applicable law if Plaintiff ultimately prevails. 42 U.S.C. § 1988. 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.

DONE AND ORDERED this 14th day of July 2021.

s/ Gary R. Jones

GARY R. JONES

United States Magistrate Judge