

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 09-cv-02220-REB-KMT

DeANGELO HORTON,

Plaintiff,

v.

EXECUTIVE DIRECTOR ARISTEDES ZAVARAS,
AVCF WARDEN MIKE ARELLANO,
AVCF STAFF MEMBER JOHN DOE (Warden Arellano's Designee),
CSP WARDEN SUSAN JONES,
CSP STAFF MEMBER JOHN DOE (Warden Jones' Designee),
AVCF STAFF MEMBER REEVES,
AVCF STAFF MEMBER GRAHAM,
AVCF STAFF MEMBER KURTZ,
AVCF STAFF MEMBERS JOHN AND/OR JANE DOES (Committee Members for 30 Day
Reviews),
CSP CASE MANAGER DeFUSCO,
CSP COMMITTEE CHAIRMAN OLSON, and
CSP STAFF MEMBERS JOHN AND/OR JANE DOES (Committee Members for 30 Day
Reviews),

Defendants.

ORDER

This matter is before the court on Plaintiff's February 4, 2010 letter to the court. (Doc. No. 20.) Plaintiff seeks assistance prosecuting his lawsuit. The court construes Plaintiff's letter as a motion for appointment of counsel.

The plaintiff is proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915 in a prisoner's civil rights case. Counsel cannot be appointed and paid pursuant to 28 U.S.C. § 1915(e)(1) for

this type of case. This court does, however, have broad discretion to direct the Clerk of Court to attempt to obtain volunteer counsel for a plaintiff in a civil case. *See DiCesare v. Stuart*, 12 F.3d 973, 979 (10th Cir. 1993). In making this decision, the court considers the following factors: (1) the merits of the litigant's claims, (2) the nature of the factual issues raised in the claims, (3) the litigant's ability to present his claims, and (4) the complexity of legal issues raised by the claims. *See Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

Here, the plaintiff's Complaint is typewritten and adequately presents his claims. The factual and legal issues raised by the plaintiff's claims are not complex. In addition, the allegations of the Complaint do not convince the court that the plaintiff's chances of succeeding on the merits are strong.

Furthermore, the court cannot give legal advice. Plaintiff is reminded that he is required to conform to the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Colorado. These rules require that parties to civil litigation file motions when they seek relief from the court. Fed. R. Civ. P. 7(b)(1) ("An application to the court for an order shall be by motion . . ."); D.C.Colo.L.Civ.R. 7.1C . Consequently,

IT IS ORDERED that the Motion (Doc. No. 20) is **DENIED**.

Dated this 9th day of February, 2010.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge