

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

NYKA O'CONNOR,  
Plaintiff,

vs.

Case No. 3:09cv224/WS/EMT

M. L. CARNAHAN, et al.,  
Defendants.

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**ORDER**

This matter is before the court on Plaintiff's "Notice of Mental Health Status & Motion to Defer From Making Any Further Rulings, Order, Etc. in This Case" (Doc. 19). In his motion, Plaintiff asks the court to "cease from making any further decisions in this case until O'Connor's current status changes positively . . . ." (Doc. 19 at 1). He also asks the court to appoint counsel to represent him in this matter (*id.*).

With respect to Plaintiff's request for the appointment of counsel, he is advised that in civil cases the appointment of counsel is not a constitutional right; rather, it is "a privilege that is justified only by exceptional circumstances, such as where the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner." Poole v. Lambert, 819 F.2d 1025, 1028 (11th Cir. 1987). As the court at this time does not view the case as exceptionally complex, Plaintiff's motion will be denied without prejudice. Appointment of counsel may be considered at a later time should the need for counsel become evident.

The court construes Plaintiff's request to refrain from making further rulings in this case at present as one to hold this matter in abeyance. This motion is granted. Plaintiff shall have through **January 4, 2010**, in which to file any objections to the pending Report and Recommendation on his motions for preliminary injunctive relief (Doc. 17). On **January 5, 2010**, the clerk shall refer the Report and Recommendation to the district court.

Plaintiff shall also have through **January 4, 2010**, in which to file a notice with the court advising of his continued interest in pursuing this litigation. If Plaintiff fails to file a notice as directed within the time allotted, the court will assume he wishes to abandon this case. The court will then recommend dismissal of this action to the district court without further notice to Plaintiff.

Accordingly, it is **ORDERED**:

1. Plaintiff's request for appointment of counsel (Doc. 19) is **DENIED**, without prejudice.

2. Plaintiff's request to refrain from making further rulings in this case at present, construed as a motion to hold this action in abeyance, is **GRANTED**, to the following extent:

Plaintiff shall have through **January 4, 2010**, in which to file any objections to the pending Report and Recommendation on his motions for preliminary injunctive relief (Doc. 17). The clerk shall refer the Report and Recommendation to the district court on **January 5, 2010**.

3. Plaintiff shall have through **January 4, 2010**, in which to file a notice with the court advising of his continued interest in pursuing this litigation. If Plaintiff fails to file a notice as directed within the time allotted, the court will assume he wishes to abandon this case. The court will then recommend dismissal of this action to the district court without further notice to Plaintiff.

**DONE AND ORDERED** this 20<sup>th</sup> day of November 2009.

*/s/ Elizabeth M. Timothy*

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**ELIZABETH M. TIMOTHY**  
**UNITED STATES MAGISTRATE JUDGE**