

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JEREMY HUGHES,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 5:16-CV-72-CAR
	:	
POLAR CORP. (MA),	:	
	:	
Defendant.	:	
	:	

ORDER ON PLAINTIFF'S MOTION TO APPOINT COUNSEL,
MOTION TO COMPEL MEDIATION, AND
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Before the Court are *pro se* Plaintiff Jeremy Hughes's Motion to Compel Arbitration or Mediation, Motion for Appointment of Counsel, and Motion for Leave to Proceed *in forma pauperis* [Docs. 30 & 31]. Plaintiff is currently incarcerated in Florida and unable to retain legal counsel to assist him in this case. Therefore, Plaintiff requests the Court compel arbitration or mediation and/or appoint counsel to represent him in this case. Defendant Polar Corp. (MA) opposes Plaintiff's Motion to Compel Arbitration or Mediation. For the following reasons, Plaintiff's Motions to Compel Arbitration or Mediation and for Appointment of Counsel [Doc. 30] are

DENIED, and Plaintiff's Motion for Leave to Proceed *in forma pauperis* [Doc. 31] is **MOOT**.

On February 16, 2016, with assistance of counsel, Plaintiff brought this disability discrimination suit against his former employer, Defendant Polar Corp. (MA). However, shortly thereafter, the Court permitted Plaintiff's counsel to withdraw from the case. The Court provided Plaintiff over five months to obtain new counsel, as he is incarcerated in Florida, and discovery in the case remained stayed. On May 4, 2017, Plaintiff sought a third extension or, in the alternative, requested the Court appoint a mediator. The Court denied Plaintiff's requests and instructed him to proceed with the case *pro se*. The stay of discovery was lifted on June 2, 2017.

On June 5, 2017, Plaintiff filed several Motions requesting the Court to compel mediation or arbitration, appoint him counsel, and provide him leave to proceed *in forma pauperis*. According to Plaintiff, prior to his counsel's withdrawal, Defendant was willing to participate in mediation or arbitration and only refuses to participate now because Plaintiff has not obtained replacement counsel. Thus, Plaintiff contends the Court should appoint him counsel and compel arbitration or mediation. In addition, Plaintiff argues the Court should still appoint him counsel even if it does not compel arbitration or mediation because Plaintiff is unable to properly articulate his

claims for relief, and imprisonment greatly limits his ability to litigate this case. The Court will address each in Motion in turn.

First, as already explained in the June 2, 2017 Order, the Court will not appoint a mediator when Defendant does not intend to facilitate a settlement in this case. Defendant still opposes Plaintiff's request because it does not wish to settle the case. Thus, the Court will not compel mediation, and this Motion is **DENIED**.

Second, “[i]n the absence of an agreement to arbitrate, a court cannot compel the parties to settle their dispute in an arbitral forum.”¹ Plaintiff makes no claim that the parties entered into an arbitration agreement, and there is no indication that one exists. Therefore, the Court cannot compel arbitration in this case, and the Motion is **DENIED**.

Third, a civil plaintiff has no constitutional right to counsel, but the district court may appoint one for an indigent plaintiff.² However, a district court is only justified in appointing counsel in “exceptional cases, such as the presence of facts and legal issues [which] are so novel or complex as to require the assistance of a trained

¹ *Klay v. All Defendant*, 389 F.3d 1191, 1200 (11th Cir. 2004) (citing *AT&T Techs., Inc. v. Communications Workers of Am.*, 475 U.S. 643, 648 (1986)).

² See 28 U.S.C. § 1915(e)(1); *Bass v. Perrin*, 170 F.3d 1312, 1320 (11th Cir. 1999).

practitioner.”³ “Where the facts and issues are simple, he or she usually will not need such help.”⁴ The Court “has broad discretion in determining whether such circumstances exist.”⁵ After reviewing the record and pleadings in this case, the Court finds there are no “exceptional circumstances” warranting the appointment of counsel. This case is not so complex legally or factually as to prevent Plaintiff from presenting the essential merits of his position to the Court. Accordingly, the Court will not appoint counsel for Plaintiff, and the Motion is **DENIED**.

Lastly, Plaintiff seeks leave to proceed *in forma pauperis* because he is unable to afford counsel.⁶ However, Plaintiff has already paid the filing fee in this case. Thus, Plaintiff’s Motion is **MOOT**.

CONCLUSION

Based on the foregoing, Plaintiff’s Motions to Compel Arbitration or Mediation and for Appointment of Counsel [Doc. 30] are **DENIED**, and Plaintiff’s Motion for Leave to Proceed *in forma pauperis* [Doc. 31] is **MOOT**.

³ *Vickers v. Georgia*, 567 F. App’x 744, 749 (11th Cir. 2014) (per curiam) (quoting *Kilgo v. Ricks*, 983 F.2d 189, 193 (11th Cir. 1993)).

⁴ *Kilgo*, 983 F.2d at 193.

⁵ *Id.* (citing *Smith v. Fla. Dep’t of Corrs.*, 713 F.3d 1059, 1063 (11th Cir. 2013)).

⁶ It appears Plaintiff filed this Motion to support his request for appointment of counsel in this case. However, as explained above, Plaintiff’s inability to afford counsel is not an “exceptional circumstance” as to warrant appointment.

SO ORDERED, this 17th day of July, 2017.

S/ C. Ashley Royal

C. ASHLEY ROYAL, SENIOR JUDGE
UNITED STATES DISTRICT COURT