

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 1637	DATE	December 23, 2010
CASE TITLE	Wheeler vs. Mays		

DOCKET ENTRY TEXT

Plaintiff's motion (Doc [160]) for a writ of habeas corpus ad testificandum ordering that certain incarcerated witnesses be produced by the state is denied without prejudice. Plaintiff's motion (Doc [161]) to reassign this matter to a United States Magistrate Judge is denied as all parties do not consent to the reassignment. Plaintiff's motion (Doc [166]) for an interlocutory appeal of our order denying his motion for appointment of counsel is denied. However, the Court hereby appoints Monika Jeetu Machen of SNR Denton US LLP, 233 South Wacker Drive, Suite 7800, Chicago, IL 60606, (312)876-8000, (mmachen@sonnenschein.com), as counsel for plaintiff for purposes of his upcoming trial. We grant plaintiff's motion (Doc [165]) for an extension of time to file the pretrial order, and provide an additional 60 days, or to 3/1/2011 for the submission of the Final Pretrial Order. Plaintiff's last two motions for additional time in the law library (Doc [158]) and to meet with defendants prior to the submission of the pretrial order (Doc [159]) are denied as moot.

■ [For further details see text below.]

Docketing to mail notices.

ORDER

This case comes before the court on six motions filed by Plaintiff Anthony Wheeler ("Wheeler"). Wheeler first asks that we issue a writ of habeas corpus ad testificandum ordering that certain incarcerated witnesses be produced by the state. Wheeler's request for a writ is premature; we have not yet set a trial date in this case. Accordingly, the motion is denied without prejudice. Wheeler also requests that we reassign this matter to a United States Magistrate Judge for purposes of conducting a jury trial. A magistrate may only conduct a jury trial in a matter with the consent of all parties to the action. 28 U.S.C. § 636(C). In their proposed pre-trial order, Defendants indicated that they do not consent to a trial before the magistrate. Without such consent, we are unable to reassign the case to the magistrate for trial and deny Wheeler's motion on that basis. Additionally, Wheeler moves for interlocutory appeal of our order denying his motion for appointment of counsel; we deny the motion for the reasons expressed in the Seventh Circuit's minute order of December 8, 2010, dismissing Wheeler's appeal for lack of jurisdiction.

Before we assess the merits of Wheeler's remaining motions, we wish to address our previous orders in which we denied Wheeler's requests for appointment of counsel in this matter. Upon reconsideration of our previous pronouncements on this issue, we have decided that Wheeler may not be competent enough to try this matter on his own and that the assistance of counsel would provide a substantial benefit to the parties and the Court that may affect the outcome of this case. For those reasons, we will appoint counsel for Wheeler for purposes of his upcoming trial. *See Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007).

ORDER

We now turn to the remainder of Wheeler's motions. Wheeler has asked for an extension of time to file his proposed pretrial order. We recognize that Wheeler's counsel will require some time to familiarize himself with the facts and circumstances of this case. We will grant the motion for an extension and provide an additional sixty days for the submission of the proposed pre-trial order. Wheeler's last two motions for additional time in the law library and to meet with Defendants prior to the submission of the pre-trial order are denied as moot.

Dated: December 23, 2010



CHARLES P. KOCORAS
U.S. District Court Judge