

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

| | | |
|----------------------|---|------------------------------|
| JOHN COLASURDO, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 3:17-cv-424-NJR-GCS |
| |) | |
| NATHANIEL WARD, |) | |
| JEANNETTE COWAN, |) | |
| KIMBERLY BUTLER, |) | |
| CAMERON WATSON, |) | |
| DARREN WHITLEY, |) | |
| SUSAN HILL, |) | |
| WILLIAM SPILLER, and |) | |
| TERRI WINGERTER |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

SISON, Magistrate Judge:

Civil litigants do not have a constitutional or statutory right to counsel. *Pruitt v. Mote*, 503 F.3d 647, 649 (7th Cir. 2007); *Zarnes v. Rhodes*, 64 F.3d 285, 288 (7th Cir. 1995). Under 28 U.S.C. § 1915(e)(1), however, this Court has discretion to recruit counsel to represent indigents in appropriate cases. *Johnson v. Doughty*, 433 F.3d 1001, 1006 (7th Cir. 2006). In evaluating whether counsel should be appointed, this Court must examine (what are known as) the *Pruitt* factors and apply them to the specific circumstances of this case. *Santiago v. Walls*, 599 F.3d 749, 760 (7th Cir. 2010). The Court must ask: “(1) has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate

it himself?” *Id.* at 761, *quoting Pruitt*, 503 F.3d at 654.

The circumstances presented in this case warrant recruitment of counsel. *See Santiago*, 599 F.3d at 765 (“The situation here is qualitatively different from typical prison litigation.”). The Court finds that the case now is at the point where the difficulty of the case exceeds Plaintiff’s ability to “coherently present it to the judge or jury himself.” *See Pruitt*, 503 F.3d at 655.

IT IS HEREBY ORDERED that, for the reasons stated, and in accordance with 28 U.S.C. § 1915(e)(1) and Local Rule(s) 83.1(i) and 83.9(b), attorney Daniel L. Polsby of Clausen Miller PC, is **ASSIGNED** to represent Plaintiff John Colasurdo in this case. On or before June 19, 2019, assigned counsel shall enter his appearance in this case. Attorney Polsby is free to share responsibilities with an associate who is also admitted to practice in this district court. Assigned counsel, however, must enter the case and shall make first contact with Plaintiff, explaining that an associate may also be working on the case. Plaintiff should wait for his attorney to contact him in order to allow counsel an opportunity to review the court file.

The Clerk of Court is **DIRECTED** to transmit this Order [and copies of the docket sheet and Doc. 88] to Attorney Polsby. The electronic case file is available through the CM-ECF system.

Now that counsel has been assigned, Plaintiff shall not personally file anything in this case, except a pleading that asks that he be allowed to have counsel withdraw from representation. If counsel is allowed to withdraw at the request of Plaintiff, there is no guarantee the Court will appoint other counsel to represent

Plaintiff.

IT IS FURTHER ORDERED that all pending motions filed by Plaintiff *pro se* are **DENIED** without prejudice so that assigned counsel can evaluate how to proceed.

Counsel is **ADVISED** to consult Local Rules 83.8-83.14 regarding *pro bono* case procedures.

Plaintiff and his counsel are **ADVISED** that, because Plaintiff is proceeding *in forma pauperis*, if there is a monetary recovery in this case (either by verdict or settlement), any unpaid out-of-pocket costs must be paid from the proceeds. *See* SDIL-LR 3.1(c)(1). If there is no recovery in the case (or the costs exceed any recovery), the Court has the discretion to reimburse expenses.

Section 2.6 of this Court's Plan for the Administration of the District Court Fund provides for a degree of reimbursement of *pro bono* counsel's out-of-pocket expenses, as funds are available. The Plan can be found on the Court's website, as well as the form motion for out-of-pocket expenses and an Authorization/Certification for Reimbursement. Any motion for reimbursement must be made within 30 days from the entry of judgment, or reimbursement will be waived. *See* SDIL-LR 83.13. The funds available for this purpose are limited, however, and counsel should use the utmost care when incurring out-of-pocket costs. In no event will funds be reimbursed if the expenditure is found to be without a proper basis. The Court has no authority to pay attorney's fees in this case. No portion of a partial filing fee assessed pursuant to 28 U.S.C. § 1915 will be reimbursed. Assigned counsel may move for an exemption from PACER fees for this

case.

The district court has entered into an agreement with attorney James P. Chapman and the Illinois Institute for Community Law to consult with lawyers on issues in these cases, including substantive and procedural questions (both legal and practical) and dealing with the client. Mr. Chapman can be reached by phone at (312) 593-6998 or email at JamesPChapman@aol.com. His services are available to you free of charge, as long as you are representing a prisoner *pro bono* on a case in the district. You are also encouraged to view online lectures presented by Mr. Chapman at www.illinoislegaladvocate.org (under “Legal Resources” then “Prisoners’ Rights”). In addition, the Court’s website, www.ilsd.uscourts.gov, includes a Prison Litigation handbook which is available to you as a resource. It is listed under “Forms” as “Attorney Information - Guide for Attorneys Recruited to Represent Plaintiffs in Section 1983 Cases.” The Court encourages you to consult it and Mr. Chapman as needed.


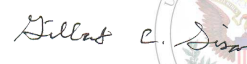
As of this date, Plaintiff’s contact information is:

**John Colasurdo, No. K88438
Pontiac Correctional Center
700 West Lincoln Street
P.O. Box 99
Pontiac, IL 61764**

IT IS SO ORDERED.

Dated: June 4, 2019.

Digitally signed by
Magistrate Judge
Gilbert C. Sison
Date: 2019.06.04
16:32:07 -05'00'



GILBERT C. SISON
United States Magistrate Judge