

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

HARRISON A. PARFAIT, JR.

CIVIL ACTION

VERSUS

NO. 17-738

NURSE DOMINIQUE ET AL.

SECTION "R" (3)

ORDER AND REASONS

Before the Court is plaintiff Harrison A. Parfait, Jr.'s motion to appoint counsel.¹ The Court denies the motion because Parfait does not have a right to appointed counsel in this case.

I. BACKGROUND

On October 3, 2016, Parfait filed a complaint in the Western District of Louisiana against defendants "Ms. Dominique" and "Ms. Renea," nurses at Terrebonne Parish Criminal Complex in Houma, Louisiana, under 42 U.S.C. § 1983.² He alleges that defendants provided inadequate medical care when they refused to grant plaintiff access to a CPAP machine to treat his sleep apnea.³ On January 1, 2017, the case was transferred to the Eastern District

¹ R. Doc. 34.

² R. Doc. 1.

³ *Id.*

of Louisiana and assigned to this Court.⁴ On August 8, 2017, the Court adopted the Magistrate’s Report and Recommendations and dismissed Parfait’s complaint without prejudice for failure to prosecute.⁵ On August 22, 2018, Parfait gave notice of appeal of the Court’s dismissal.⁶ He now seeks appointed counsel for his appeal.⁷

II. DISCUSSION

There is no general right to counsel in civil rights actions. *McFaul v. Valenzuela*, 684 F.3d 564, 581 (5th Cir. 2012) (citing *Cupit v. Jones*, 835 F.2d 82, 86 (5th Cir. 1987)). A district court should not appoint counsel simply because appointment of counsel would be beneficial. *See Saulsberry v. Edwards*, No. 07–5395, 2007 WL 4365394, at *2 (E.D. La. Dec. 11, 2007) (citing *Norton v. Dimazana*, 122 F.3d 286, 293 (5th Cir. 1997)). Instead, a district court should appoint counsel only if exceptional circumstances exist. *See, e.g., McFaul*, 684 F.3d at 86 (citing *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982); *Norton*, 122 F.3d at 293).

⁴ R. Doc. 3.

⁵ R. Doc. 17.

⁶ R. Doc. 30.

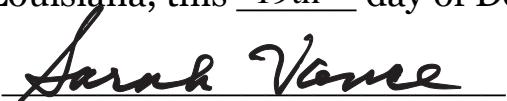
⁷ R. Doc. 34.

District courts consider four factors when deciding whether exceptional circumstances exist in a particular case: (1) the type and complexity of the case; (2) whether the plaintiff is capable of adequately presenting his case; (3) whether plaintiff is in a position to adequately investigate the case; and (4) whether the evidence will consist in large part of conflicting testimony so as to require skill in the presentation of evidence and in cross examination. *Ulmer*, 691 F.2d at 213. None of the *Ulmer* factors weighs in favor of appointing counsel in this case. Parfait's claim is not legally complex; his advocacy thus far demonstrates that he is capable of adequately presenting and investigating the case; and nothing in the record indicates that skill in presentation or cross-examination is required to litigate his claims. Accordingly, the Court denies his motion to appoint counsel.

IV. CONCLUSION

For the foregoing reasons, petitioner's motion to appoint counsel is DENIED.

New Orleans, Louisiana, this 19th day of December, 2018.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE