

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

PAUL M. COUGHLIN, JR.,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 2:17-cv-470-DBH
)	
UNITED STATES OF AMERICA,)	
)	
DEFENDANT)	

ORDER ON PENDING MOTIONS

The defendant's second motion to substitute (ECF No. 41) is **GRANTED** as follows: The United States of America is substituted for the Federal Bureau of Investigation as the defendant solely with regard to any state law tort claims subject to the Federal Tort Claims Act.

The plaintiff's motion to appoint counsel (ECF No. 45) is **DENIED**. The only basis for appointment here would be 28 U.S.C. § 1915(e)(1), dealing with someone unable to afford counsel. But in this case the plaintiff has not qualified for *in forma pauperis* status, instead paying the filing fee. Moreover, he has told the court that he had a lawyer who withdrew from the case after the defendant told the lawyer that the plaintiff is not under investigation. Pl.'s Addendum #5, at 6 (ECF No. 36); Pl's Addendum #6, at 1 (ECF No. 42); Pl.'s Mot. to Appoint Counsel. "There is no absolute constitutional right to a free lawyer in a civil case. Hence, to succeed on [an appeal of a denial of a request for counsel, a party] must demonstrate that he was indigent and that exceptional

circumstances were present such that a denial of counsel was likely to result in fundamental unfairness impinging on his due process rights.” DesRosiers v. Moran, 949 F.2d 15, 23 (1st Cir. 1991). This plaintiff qualifies neither on the basis of indigency nor on the exceptional circumstances standard. The facts and the law here are not complex.

I note that the defendant’s motion for judgment on the pleadings has been withdrawn. What remains pending is the defendant’s motion to dismiss, but it has not yet been fully briefed. The plaintiff has moved “to delay decision . . . until legal counsel is appointed.” Pl.’s Mot. to Stay (ECF No. 49). But his motion for counsel has now been denied as I describe above. I do extend the time for him to respond to the motion to dismiss so that it runs from today. The plaintiff shall respond to the motion no later than August 23, 2018. His motion to stay is

DENIED AS MOOT.

SO ORDERED.

DATED THIS 2ND DAY OF AUGUST, 2018

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE