

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES MABEN,

Plaintiff,

v.

Case No. 1:17-cv-11713

Judge Thomas L. Ludington

Magistrate Judge Anthony P. Patti

CORIZON HEALTH
CARE, et al.,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTIONS TO
APPOINT COUNSEL (DE 3) and TO COMPEL SERVICE (DE 4)**

James Maben (#300475), who is currently in the MDOC's custody at Thumb Correctional Facility (TCF), has filed the instant lawsuit *in pro per* against 4 defendants: Corizon Health Care, a doctor located at TCF, a nurse practitioner located at Central Michigan Correctional Facility (STF), and a physician's assistant located at Macomb Correctional Facility (MRF). (DE 1.) To date, the Court has entered: (1) an order waiving prepayment of the filing fee and directing payment of the initial partial filing fee and subsequent payments (DE 6), which also granted Plaintiff's motion to proceed *in forma pauperis* (DE 2); and (2) an order directing service without prepayment of costs and authorizing the U.S. Marshal Service (USMS) to collect costs after service is made (DE 7). In addition, the USMS has

acknowledged receipt of service of process documents. (DE 9.) Thus, service upon the Defendants is ongoing.

Judge Ludington has referred this case to me for general case management. (DE 8.) Currently before the Court are Plaintiff's motions to appoint counsel and motion to compel service. Upon consideration, the motion to compel service (DE 4) is **DENIED WITHOUT PREJUDICE** as premature. The motion asks the Court to order the USMS "to locate and serve all the Defendants[,]" and, as noted above, efforts at service of process upon Defendants (at the addresses provided within the complaint) are ongoing. Should it turn out that any of these attempts at service is unsuccessful as a result of an incorrect address, Plaintiff may renew his request, at which time the Court might entertain an order requiring the MDOC to provide any defendant's last known address to the USMS under seal.

Furthermore, the motion to appoint counsel (DE 3) is likewise **DENIED WITHOUT PREJUDICE**. It is true that "[t]he court may request an attorney to represent any person unable to afford counsel." 28 U.S.C.A. § 1915(e)(1). However, such requests are justified only in exceptional circumstances. Moreover, while the Court recognizes Plaintiff's assertion that he is a qualified individual under the Americans With Disabilities Act (ADA) and that his "disorder makes forming a coherent pleading impossible[,]" the Court has been able to understand the relief sought in the instant two motions

(DE 3, DE 4), and further notes that the relief sought by the application to proceed *in forma pauperis* was granted by the Court. Moreover, at this time, the Court has no reason to believe it will be unable to understand Plaintiff's only other filing in this matter – his complaint. Plaintiff may renew his request if this case survives dispositive motion practice or if other circumstances warranting the appointment of counsel arise.

IT IS SO ORDERED.

Dated: July 5, 2017

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on July 5, 2017, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti