

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL ALAF GETTER,

Plaintiff,

vs.

Case No. 11-12021

JANE DOE #1, DR. HAGUES,
DR. WILLIAM A. BERK, DR.
NASEEM UKANI, and DR. DENISE
GRAY,

HON. AVERN COHN

Defendants.

**ORDER DENYING PLAINTIFF'S APPEAL FROM MAGISTRATE JUDGE'S ORDER
DENYING THE APPOINTMENT OF COUNSEL (Doc. 36)**

I. Introduction

This is a case concerning medical care. Plaintiff Michael Alaf Getter is a state prisoner currently confined at the Richard A. Handlon Correctional Facility in Ionia, Michigan. Broadly construed, plaintiff complains about the medical care he received while incarcerated at the Wayne County Jail and later at Detroit Receiving Hospital.

The matter was referred to a magistrate judge for pretrial proceedings. Certain defendants filed dispositive motions, which were the subject of a report and recommendation by the magistrate judge. (Doc. 22). On March 13, 2012, the Court issued an order dismissing plaintiff's claims against defendants William Berk, Denise Gray, and Naseem Ukani without prejudice. The Court also directed that the case continue based on a § 1983 denial of medical care claim against Jane Doe #1 and Dr. Hagues. See Doc. 29. Finally, the Court ordered plaintiff to file an amended complaint

naming only Hagues and Jane Doe #1. The amended complaint is due to be filed by May 14, 2012. See Doc. 35.

Following the Court's March 13, 2012 order, plaintiff moved for the appointment of counsel. (Doc. 31). The magistrate judge denied the motion without prejudice. (Doc. 34). Plaintiff appeals. (Doc. 36).

II.

The decision and order of a non-dispositive motion by a magistrate judge will be upheld unless it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Massey v. City of Ferndale, 7 F.3d 506, 509 (6th Cir. 1993). "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948); Hagaman v. Comm'r of Internal Revenue, 958 F.2d 684, 690 (6th Cir. 1992). "If two permissible views exist, a magistrate judge's decision cannot be 'clearly erroneous.'" Hennigan v. Gen. Elec. Co., 2010 WL 4179376 *2 (E.D. Mich. Oct.20, 2010) (unpublished). Rule 72(a) provides considerable deference to the determinations of magistrate judges. In re Search Warrants, 889 F. Supp. 296, 298 (S.D. Ohio 1995).

III.

Plaintiff has not shown that the magistrate judge clearly erred in denying the motion for appointment of counsel. The magistrate judge correctly noted that plaintiff has no statutory right to the appointment of counsel and that the appointment of counsel is a matter of discretion. The Court agrees with the magistrate judge that plaintiff has not shown he is entitled to counsel. Rather, it is apparent from his papers that although

not an attorney, plaintiff has a basic understanding of the law sufficient to represent himself at this time.

Accordingly, plaintiff's appeal is DENIED.

SO ORDERED.

Dated: May 11, 2012

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Michael Getter, 184843, Richard A. Handlon Correctional Facility, 1728 Bluewater Highway, Ionia, MI 48846 and the attorneys of record on this date, May 11, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160