

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENYATTA NALLS,
Plaintiff,

Civil Action No.: 11-12670
Honorable Arthur J. Tarnow
Magistrate Judge Elizabeth A. Stafford

v.

BENNY N. NAPOLEAN, *et al.*,
Defendants.

_____ /

ORDER DENYING SECOND MOTION TO APPOINT [86]
WITHOUT PREJUDICE

Before the Court is plaintiff Kenyatta Nalls' (a prisoner proceeding *pro se*) second motion to appoint counsel. [86] Nalls filed his original complaint in June 2011 against a number of correctional officers and prison medical staff alleging deliberate indifference to a serious medical need arising out of an injury sustained to his hands when cell doors closed on them. His original complaint did not properly identify all defendants and a recommendation was made to dismiss them for failure to prosecute. [16]. Nalls moved to instead amend his complaint and the Court permitted discovery to ascertain the identities of the unidentified defendants. [22, 28, 30]. As a result, on January 6, 2015, Nalls filed a verified first amended complaint properly identifying all defendants. [42].

Discovery ensued and, on August 6, 2015, Defendants filed a motion

for summary judgment. [84]. Nalls's response was due on August 31, 2015. To date he has not responded.

Nalls's renewed motion to appoint seeks counsel for trial, which he claims is impending based on the parties' filing of witness lists. However, trial is not impending at this juncture, as the Court must still rule on Defendants' dispositive motion. Only if that motion is determined in Nalls's favor, will a trial be imminent. At that juncture, Nalls may renew his motion to appoint.

Presently, the Court finds no change in circumstance from the time of its denial of Nalls's first motion to appoint that could be deemed "exceptional" such that counsel should be appointed at this juncture. Therefore, for the reasons stated in this Court's previous Order on the subject, [45], Nalls's motion [86] is **DENIED** without prejudice. Furthermore, Nalls's response to Defendants' pending motion is due **ON OR BEFORE September 30, 2015.**

IT IS SO ORDERED.

Dated: September 10, 2015
Detroit, Michigan

s/Elizabeth A. Stafford
ELIZABETH A. STAFFORD
United States Magistrate Judge

NOTICE TO THE PARTIES REGARDING OBJECTIONS

The parties' attention is drawn to Fed. R. Civ. P. 72(a), which

provides a period of fourteen (14) days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S. C. §636(b)(1).

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 10, 2015.

s/Marlina Williams
MARLENA WILLIAMS
Case Manager