

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD KIRK BROWN,

Plaintiff,

No. 16-11837

v.

District Judge Sean F. Cox
Magistrate Judge R. Steven Whalen

STEVE RIVARD, ET AL.,

Defendants.

ORDER

Plaintiff Ronald Kirk Brown, a prison inmate in the custody of the Michigan Department of Corrections, filed a *pro se* civil rights complaint, under 42 U.S.C. § 1983, and was granted leave to proceed *in forma pauperis* (“IFP”) on May 24, 2016 [Doc. #5]. Before the Court is his motion to appoint counsel [Doc. #23].

Unlike criminal cases, there is no constitutional or statutory right to the appointment of counsel in civil cases. Rather, the Court requests members of the bar to assist in appropriate cases. In *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6th Cir. 1993), the Sixth Circuit noted that “[a]ppointment of counsel in a civil case is not a constitutional right. It is a privilege that is justified only by exceptional circumstances.” (Internal quotations and citations omitted).

It is the practice of this Court to defer any attempt to obtain counsel for *pro se* civil rights Plaintiffs until after motions to dismiss or motions for summary judgment have been denied. On July 14, 2017, I filed a Report and Recommendation [Doc. #26], recommending that Defendants’ motion for summary judgment [Doc. #20] be denied in part. Defendants’ motion was premised on Plaintiff’s alleged failure to exhaust his

administrative remedies, as required by 42 U.S.C. § 1997e(a). Neither the motion nor my Report and Recommendation addressed Plaintiff's substantive claims. In fact, I recommended that the motion for summary judgment "be DENIED as to Defendants Siefker and Souder, without prejudice to their filing a renewed motion for summary judgment following discovery."

Plaintiff's motion to appoint counsel is therefore premature. If the Court adopts my Report and Recommendation, and if any Defendants survive a subsequent motion for summary judgment, then Plaintiff may renew his request for counsel at that time.

Accordingly, Plaintiff's motion to appoint counsel [Doc. #23] is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: July 25, 2017

CERTIFICATE OF SERVICE

I hereby certify on July 25, 2017, that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to non-registered ECF participants on July 25, 2017.

s/Carolyn Ciesla
Case Manager to
Magistrate Judge R. Steven Whalen