

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**CHARLES GALLOWAY**

**PLAINTIFF**

**v.**

**No. 3:20CV170-DAS**

**MALLIE NESBIT**

**DEFENDANTS**

**ORDER DENYING PLAINTIFF'S MOTION [7] APPOINTMENT OF COUNSEL**

*Pro se* plaintiff requests appointment of counsel to represent him in this action brought under 42 U.S.C. § 1983. There is no automatic right to counsel in a § 1983 case. *Wright v. Dallas County Sheriff's Department*, 660 F.2d 623, 625-26 (5<sup>th</sup> Cir. 1981); *Cupit v. Jones*, 835 F.2d 82, 86 (5<sup>th</sup> Cir. 1987). Unless there are "exceptional circumstances," a district court is not required to appoint counsel to represent indigent plaintiffs in a civil action. *Branch v. Cole*, 686 F.2d 264, 266 (5<sup>th</sup> Cir. 1982). *See also, Feist v. Jefferson County Commissioners Court*, 778 F.2d 250, 253 (5<sup>th</sup> Cir. 1985). In this case, however, the court has yet to conduct a hearing pursuant to *Spears v. McCotter*, 766 F.2d 179 (5<sup>th</sup> Cir. 1985), at which the plaintiff will have an opportunity to expound upon his claims. The instant motion is premature, and it should be denied. After observing plaintiff at a *Spears* hearing, if the court determines that counsel should be appointed it will do so *sua sponte*. It is, therefore,

**ORDERED:**

That plaintiff's motion [7] for appointment of counsel is **DENIED**.

This, the 14th day of October, 2020.

/s/ David A. Sanders

DAVID A. SANDERS

UNITED STATES MAGISTRATE JUDGE