

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

CHRISTOPHER GOLDEN

PLAINTIFF

V.

CIVIL ACTION NO. 5:08cv156-DCB-MTP

GABRIEL WALKER, et al.

DEFENDANTS

ORDER

THIS MATTER is before the court on the Plaintiff's Motion for Appointment of Expert Witness [36]. The court, having considered the submissions of the parties and the applicable law, finds that the Motion [36] should be denied.

Plaintiff requests that the court to appoint an expert witness in order to assist him in computing and proving his damages, to testify regarding the inappropriateness of the force allegedly used by defendants, to testify on matters related to his injuries, and to rebut any expert testimony offered by defendants.

Plaintiff is proceeding *pro se* and *in forma pauperis* under 28 U.S.C. § 1915. Fifth Circuit precedent establishes that "[t]he plain language of section 1915 does not provide for the appointment of expert witnesses to aid an indigent litigant." *Hannah v. U.S.*, 523 F.3d 597, 601 (5th Cir. 2008) (*quoting Pedraza v. Jones*, 71 F.3d 194, 196 (5th Cir. 1995)). The court may, however, appoint an expert witness at its discretion, pursuant to Rule 706 of the Federal Rules of Civil Procedure, if an indigent prisoner can establish that such an appointment is warranted. *Pedraza*, 71 F.3d at 196-97 n.5. "Rule 706 contemplates the appointment of an expert to aid the court[,] not for the Plaintiff's benefit. *Hannah*, 523 F.3d at 600.

As noted in the court's Orders [17] [35] denying plaintiffs' motions for appointment of counsel, the issues involved in this case are not complex or confusing. Indeed, this is a relatively

simple case, involving a claim of excessive force. Plaintiff has failed to establish that the appointment of an expert witness is necessary to aid the court.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Appointment of Expert Witness [36] is DENIED.

SO ORDERED this the 17th day of November, 2008.

s/ Michael T. Parker

United States Magistrate Judge