

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

MAY - 9 2019


MITCHELL R. ELFERS
CLERK OF COURT

CHLOE A. LUCERO,

Plaintiff,

v.

No. 2:19-cv-00042-RB-KRS

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

MEMORANDUM OPINION AND ORDER
DENYING MOTION TO APPOINT COUNSEL

THIS MATTER comes before the Court on Plaintiff's Motion to Appoint Counsel, filed May 6, 2019. (Doc. 9.)

Plaintiff mailed a motion requesting appointment of counsel to the Clerk of Court stating: "If the Court *continues* to refuse to appoint counsel in this matter, it constitutes a deprivation of my right to redress." (Doc. 9 at 1 (*emphasis added*)). The caption on the motion reads: "Chloe Lucero, Plaintiff, vs. United States, Defendant." Plaintiff has filed two cases in this Court, but the motion does not identify the case in which the motion should be filed.

Plaintiff's first case, *Lucero v. Peace Health Medical Group*, No. 2:18-cv-00859-GJF, was transferred to the District of Oregon on September 17, 2018, and did not name the Federal Bureau of Investigation or the United States as a defendant. The Court denied Plaintiff's motion to appoint counsel in *Lucero v. Peace Health Medical Group*, No. 2:18-cv-00859-GJF, because Plaintiff filed the motion after the case had been transferred to the District of Oregon.

Plaintiff has not filed a motion for appointment of counsel in this her second case, *Lucero v. Federal Bureau of Investigation*, No. 2:19-cv-00042-RB-KRS, which has been dismissed without prejudice for lack of subject-matter jurisdiction.

Because it is not clear which case Plaintiff intended to file her motion to appoint counsel in, the Court will address the motion in this case and will transmit the motion to the District of Oregon to address in Plaintiff's other case.

The Court denies Plaintiff's Motion to Appoint Counsel in this case because the Court has dismissed the case without prejudice for lack of subject-matter jurisdiction, and Plaintiff has not convinced the Court that there is sufficient merit to her now-dismissed claims to warrant the appointment of counsel. *See Witmer v. Grady Cty. Jail*, 483 F. App'x. 458, 462 (10th Cir. 2012) ("civil litigants have no right to counsel"); *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004) ("The burden is on the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel").

IT IS ORDERED that:

- (i) Plaintiff's Motion to Appoint Counsel (Doc. 9) is **DENIED**.
- (ii) The Clerk shall transmit a copy of Plaintiff's Motion to Appoint Counsel, and a copy of this Order to the District of Oregon.
- (iii) Plaintiff shall include the case number on the first page of each document she files indicating the case in which the document should be filed. Failure to include the case number may result in the document not being filed by the Clerk. If Plaintiff wishes to file additional documents in cases pending in Districts other than the District of New Mexico, she must file those documents with the Clerk of those other

Districts. The Clerk of the District of New Mexico will not transmit any additional such documents to other Districts.

A handwritten signature in black ink, appearing to read "Robert G. ...". The signature is written in a cursive style and is positioned above a horizontal line.

SENIOR UNITED STATES DISTRICT JUDGE