

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GRAHAM MORAN,

Plaintiff,

-against-

ALINA MORAN, *et al.*,

Defendants.

21-CV-3973 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is appearing *pro se* and proceeding *in forma pauperis* (“IFP”), is currently incarcerated in the Philadelphia Industrial Correctional Center in Pennsylvania. By order dated August 26, 2021, the Court dismissed his complaint, and granted Plaintiff 30 days’ leave to replead his claims in an amended complaint. On September 8, 2021, Plaintiff filed an Application for the Court to Request *Pro Bono* Counsel.

The factors to be considered in ruling on an indigent litigant’s request for counsel include the merits of the case, his efforts to obtain a lawyer, and his ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargent Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are “[t]he factor which command[s] the most attention.” *Cooper*, 877 F.2d at 172. Because it is too early in the proceedings for the Court to assess the merits of the action, the Court denies Plaintiff’s application without prejudice to Plaintiff’s filing another such application at a later date. The Court grants Plaintiff a 30-day extension of time to comply with the August 26, 2021 order.

CONCLUSION

Plaintiff’s motion for counsel (ECF 10) is denied without prejudice. Plaintiff is directed to file an amended complaint, in compliance with the Court’s August 26, 2021 order, within 30

days of the date of this order. If Plaintiff fails to comply within the time allowed, the complaint will be dismissed for failure to state a claim upon which relief may be granted. 28 U.S.C. §1915(e)(2)(B)(ii).

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 9, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge