

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYRONE PETERS,

Plaintiff,

-against-

CORRECTION OFFICER HUTTEL *et al.*,

Defendants.

No. 15-cv-9274 (NSR)

ORDER GRANTING REQUEST FOR
PRO BONO COUNSEL

NELSON S. ROMÁN, United States District Judge:

Plaintiff Tyrone Peters (“Plaintiff”) brings this action, *pro se*, against Correction Officer (“CO”) Daniel Huttel, CO Jeffrey Erns, and Sergeant Duane Malark (collectively, “Defendants”), alleging claims under 18 U.S.C. § 1983. (ECF Nos. 38, 45.) On December 5, 2019, this Court granted Defendants’ motion for partial summary judgment. (ECF No. 92.) As a result, the sole remaining cause of action in this lawsuit is related to a claim of excessive force against CO Huttel, CO Erns, and Sergeant Malark.

During the parties’ status conference, held on January 24, 2020, Plaintiff expressed interest in the Court appointing *pro bono* counsel. As Plaintiff has a claim that has survived summary judgment this Court concludes Plaintiff’s claims are “likely to be of substance.” *Hodge v. Police Officers*, 802 F.2d 58, 60 (2d Cir. 1986). Furthermore, as this matter appears to be proceeding to trial, the Court finds that appointment of counsel in this matter would “lead to a quicker and more just result by sharpening the issues and shaping examination.” *Id.* at 61. Accordingly, consistent with its representations during the January 24, 2020 status conference, the Court GRANTS Plaintiff’s application that the Court request *pro bono* counsel.

The Court advises Plaintiff that there are no funds to retain counsel in civil cases and the Court relies on volunteers. Due to a scarcity of volunteer attorneys, a lengthy period of time may

pass before counsel volunteers to represent Plaintiff. Nevertheless, this litigation will progress at a normal pace. If an attorney volunteers, the attorney will contact Plaintiff directly. There is no guarantee, however, that a volunteer attorney will decide to take the case, and plaintiff should be prepared to proceed with the case pro se. Of course, if an attorney offers to take the case, it is entirely Plaintiff's decision whether to retain that attorney or not. The Court has established a Pro Bono Fund to encourage greater attorney representation of *pro se* litigants. The Fund is especially intended for attorneys for whom pro bono service is a financial hardship. See http://www.nysd.circ2.dcn/docs/prose/pro_bono_fund_order.pdf.

The Clerk of the Court is directed to a mail copy of this Order to Plaintiff at the address listed on ECF and to file proof of service on the docket. The Court reminds the parties that they are to appear at the next scheduled status conference on March 26, 2020 at 10:00 A.M. It is the responsibility of Defendants' counsel to make prior arrangements with the appropriate facility to have the *pro se* Plaintiff appear via telephone.

Dated: February 21, 2020
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge