

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL FREDERICK,

Plaintiff,

v.

MICHAEL SHEHAN, et al,

Defendants.

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DECISION & ORDER

10-CV-6527CJS

On October 25, 2010, *pro se* plaintiff Michael Frederick (“plaintiff”) filed an amended complaint pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, that defendants denied him due process rights in violation of the Fourteenth Amendment and used excessive force against him in violation of the Eighth Amendment. (Docket # 4). Currently before this Court is plaintiff’s third motion for the appointment of counsel. (Docket # 48).

Plaintiff’s previous motions for appointment of counsel were denied on the grounds that the legal issues in the case did not appear to be complex, it did not appear that conflicting evidence would implicate the need for extensive cross-examination at trial and plaintiff’s case did not present any special reasons justifying the assignment of counsel. (Docket # 28). In the present motion, plaintiff has asserted that the legal issues presented by this case are complex and that the case will likely involve conflicting testimony; however, plaintiff has not adduced any facts to support these assertions. Accordingly, for the reasons set forth in this Court’s previous order, plaintiff’s motion for the appointment of counsel (**Docket # 48**) is

**DENIED without prejudice** at this time. It is the plaintiff's responsibility to retain an attorney or press forward with this lawsuit *pro se*. 28 U.S.C. § 1654.

**IT IS SO ORDERED.**

*s/Marian W. Payson*

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MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
December 17, 2012