

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL JAMES WELLS,

Plaintiff,

Case # 16-CV-6850-FPG

v.

DECISION AND ORDER

SUPERINTENDENT J. COLVIN, et al.,

Defendants.

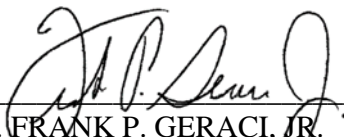
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On January 5, 2018, *pro se* Plaintiff Michael James Wells moved to appoint counsel. ECF No. 18.<sup>1</sup> There is no constitutional right to appointed counsel in civil cases, although the Court may appoint counsel to assist indigent litigants pursuant to 28 U.S.C. § 1915(e). *See, e.g., Sears, Roebuck & Co. v. Charles Sears Real Estate, Inc.*, 865 F.2d 22, 23 (2d Cir. 1988). The Court must carefully consider whether to appoint counsel, because “every assignment of a volunteer lawyer deprives society of a volunteer lawyer available for a deserving cause.” *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989). The Court must consider several factors, including whether the indigent’s claims seem likely to be of substance. *See Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997); *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986).

Here, it is unclear whether Plaintiff’s claims are likely to be of substance because this case is in the early stages of litigation. Defendants just answered Plaintiff’s Complaint on December 22, 2017, and no discovery has occurred. A scheduling conference is set for February 14, 2018 before Magistrate Judge Jonathan W. Feldman. Therefore, Plaintiff’s Motion to Appoint Counsel (ECF No. 18) is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: January 11, 2018  
Rochester, New York

  
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HON. FRANK P. GERACI, JR.  
Chief Judge, United States District Court

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<sup>1</sup> Plaintiff also moved to appoint counsel on May 1, 2017 (ECF No. 5) and the Court denied that motion (ECF No. 9).