

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

LeRoy K. Wheeler,)	
)	
Plaintiff,)	ORDER DENYING MOTION FOR
)	RECONSIDERATION
vs.)	
)	
State of North Dakota)	
Tim Schuetzle)	Case No. 1:07-cv-075
Leann K. Bertsch)	
)	
Defendants.)	

On October 16, 2008, the court issued an order denying without prejudice Plaintiff LeRoy K. Wheeler’s Motion for Appointment of Counsel. In so doing, it observed that Wheeler had neither a constitutional nor a statutory right to counsel and that appointment of counsel was not warranted under the existing circumstances.

On October 24, 2008, Wheeler filed a Motion to Reconsider Appointment of Counsel. He maintains that he needs the assistance of counsel in order to fairly present his claims at trial as the final determination may turn on the issue of credibility. He also expresses concern about the possibility that the Defendants may destroy evidence or otherwise deny him access to relevant files given his status and that his unfamiliarity with procedure and lack of legal knowledge will prevent him from properly objecting or laying foundation at trial.

To date Wheeler has been able to adequately pursue his claims. He has not been hampered by his lack of formal legal training. His fears regarding discovery are anticipatory and have yet to be realized. His concerns regarding trial and how he may be perceived by the factfinders are premature. The court is therefore not persuaded that appointment of counsel is warranted at this

time. Accordingly, Wheeler's Motion to Reconsider Appointment of Counsel (Docket No. 49) is **DENIED**. Further motions for appointment of counsel shall be deemed denied without prejudice to renew should any of Wheeler's claims survive summary judgment.

IT IS SO ORDERED.

Dated this 2nd day of December, 2008.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge