

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

RANDY LEE WRIGHT,

Plaintiff,

:

Case No. 3:10-cv-201

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

CHARLES A. COX, SHERIFF, et al.,

Defendants.

**DECISION AND ORDER DENYING MOTION TO APPOINT COUNSEL WITHOUT
PREJUDICE AND VACATING PRETRIAL CONFERENCE**

This action is before the Court on Plaintiff’s Motions to Appoint Counsel (Doc. No. 22), to Continue the Pretrial Conference (Doc. No. 23), and to order Defendants’ counsel to attend the pretrial conference in person at the Miami County Jail (Doc. No. 24).

Plaintiff was granted leave to file this case *in forma pauperis*. While Congress has authorized courts to appoint counsel in such cases, it has never authorized any funding for such counsel and the Court cannot compel counsel to serve without compensation. *Mallard v. United States District Court*, 490 U.S. 296, 309 (1989). Therefore this Court’s process upon request for appointed counsel is to stay the proceedings pending review by the Volunteer Lawyers Project of the Dayton Bar Association, a process which usually take about ninety days. If upon screening the VLP is able to find an attorney who will accept the representation either *pro bono publico* or on a contingent fee basis, the Court will appoint that attorney, dissolve the stay, and set the case for pretrial conference. Since the Court does not know whether Plaintiff wants to delay that long, it will deny the current motion for appointed counsel and invite Plaintiff, if he wishes to have the case

screened by VLP to file a new motion for counsel indicating that not later than August 1, 2010.

Pending resolution of the appointed counsel question, the preliminary pretrial conference date is VACATED.

Since Plaintiff indicates he will be released on July 29, 2010, the motion to require Defendants' counsel to confer with Plaintiff at the jail is denied as moot.

July 19, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge