

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID GEE,	:	
	:	
Plaintiff	:	
	:	
vs.	:	CIVIL NO. 1:CV-10-0710
	:	
YORK COUNTY CHILDREN AND YOUTH :		
SERVICES,		
Defendant	:	

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

The pro se plaintiff, David Gee, proceeding in forma pauperis, has filed a motion for appointment of counsel. He filed this civil-rights action to challenge state-court rulings that terminated his parental rights. Plaintiff requests appointment of counsel on the grounds that: (1) he is a layperson who cannot understand the rules of procedure; (2) he is allowed to use the prison law library only two days a week, and he fears he will miss deadlines; and (3) he is indigent and may not be able to afford to send copies of documents to the proper parties.

This is a civil action, not a criminal one. Hence the plaintiff has no constitutional or statutory right to appointed counsel. *Montgomery v. Pinchak*, 294 F.3d 492, 498 (3d Cir. 2002). Nor can the court compel a lawyer to represent an indigent plaintiff. *Tabron v. Grace*, 6 F.3d 147, 153 n.1 (3d Cir. 1993). Rather, representation for an indigent is governed by 28 U.S.C. § 1915(e)(1) which only provides that the court "may *request* an attorney to represent any person unable to afford counsel." (emphasis added).

A district court has broad discretion under 28 U.S.C. § 1915(e)(1) in deciding whether to seek counsel, *Montgomery*, 294 F.3d at 498, and the decision can be made at any point of the litigation. *Id.* at 503-04 (“Either the Magistrate Judge or the District Court should have recognized Montgomery's difficulties as they became increasingly apparent and, in light of them, reconsidered Montgomery's motion for appointment of counsel.”).

The Third Circuit has provided guidance for the exercise of the district court's discretion. At the threshold, the court must decide whether the plaintiff's case “has some arguable merit in fact and law.” *Id.* at 499 (quoting *Parham v. Johnson*, 126 F.3d 454, 457 (3d Cir. 1997)). A court need not appoint counsel “if the indigent's chances of success on the merits are extremely slim.” *Id.* at 500 (quoting *Hodge v. Police Officers*, 802 F.2d 58, 60 (2d Cir. 1986))(internal quotation marks and brackets omitted).

We will deny Plaintiff's motion because he cannot meet this threshold requirement. His complaint lacks merit because he is challenging state-court rulings, a claim over which we lack jurisdiction. Plaintiff has set forth another cause of action but it fails to state a claim.

Accordingly, this 8th day of June, 2010, it is ordered that Plaintiff's motion for appointment of counsel (doc. 6) is denied.

/s/William W. Caldwell  
William W. Caldwell  
United States District Judge