

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Betty Frances Taylor Epting, *as Personal*)
Representative of the Estate of Thomas Edgar)
Taylor, Sr,)
)
Plaintiff,)
)
v.)
)
South Carolina Department of Corrections;)
Minnie Macon; Arthur Butler; Linda McNutt;)
and Aaron Pellum,)
)
Defendants.)
_____)

C/A No. 0:16-3172-DCC-PJG

ORDER

Plaintiff Betty Frances Taylor Epting, acting as personal representative for the estate of Thomas Edgar Taylor, Sr., filed this action pursuant to 42 U.S.C. § 1983 alleging a violation of Thomas Taylor’s constitutional rights. This matter is before the court on Defendant Aaron Pellum’s¹ motion for appointment of counsel. (ECF No. 53.)

There is no right to appointed counsel in § 1983 cases. Hardwick v. Ault, 517 F.2d 295 (5th Cir. 1975). The court may use its discretion to request counsel to represent an indigent in a civil action. See 28 U.S.C. § 1915(e)(1); Mallard v. United States Dist. Court for S. Dist. of Iowa, 490 U.S. 296 (1989). However, such discretion “should be allowed only in exceptional cases.” Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975). Whether exceptional circumstances are present depends on the type and complexity of the case, and the *pro se* litigant’s ability to prosecute it.

¹ Defendant Aaron Pellum is an inmate with the South Carolina Department of Corrections and is currently proceeding *pro se*.

PJG

Whisenant v. Yuam, 739 F.2d 160 (4th Cir. 1984), abrogated on other grounds by Mallard, 490 U.S. 296.

The defendant has not provided any financial documentation to verify his inability to retain counsel. See 28 U.S.C. § 1915(a)(1). Moreover, although he alleges that he suffers from mental issues, he has presented no evidence supporting a finding that any health issues would interfere with his ability to defend himself against the plaintiff's claims. Additionally, the defendant's motion contains no showing of exceptional or unusual circumstances at this time. Whisenant, 739 F.2d at 160. Accordingly, Defendant Pellum's motion requesting counsel under 28 U.S.C. § 1915(e)(1) is denied.

IT IS SO ORDERED.


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

August 31, 2018
Columbia, South Carolina