

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

Corey Jawan Robinson, #294233,)
)
Plaintiff,)
)
v.)
)
Officer/Sergeant Mr. Gilliard,)
)
Defendant.)
_____)

Civil Action No.: 5:16-cv-01635-JMC

ORDER

Pro se Plaintiff, an inmate with the South Carolina Department of Corrections (“SCDC”), filed this action (ECF No. 1) pursuant to 42 U.S.C. § 1983. On August 24, 2017, the court denied Defendant’s Motion for Summary Judgment (ECF No. 36) in all respects. (ECF No. 61.) The court further denied Defendant’s Motion for Summary Judgment on the basis of qualified immunity. (ECF No. 61 at 8.) In this regard, the court now considers whether to appoint counsel for Plaintiff.

Pursuant to 28 U.S.C. § 1915(e)(1), “the court may request an attorney to represent any person unable to afford counsel.” *Id.* However, “there is no absolute right to appointment of counsel [absent] . . . ‘exceptional circumstances.’” *Hall v. Holsmith*, 340 F. App’x 944, 946 (4th Cir. 2009) (quoting *Miller v. Simmons*, 814 F.2d 962, 966 (4th Cir.1987)); *Whisenant v. Yuam*, 739 F.2d 160, 163 (1984), *abrogated on other grounds by Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296 (1989) (“The power to appoint is a discretionary one, but it is an abuse of discretion to decline to appoint counsel where the case of an indigent plaintiff presents exceptional circumstances.”). Exceptional circumstances exist where “it is apparent to the district court that a pro se litigant has a colorable claim but lacks the capacity to present

it.” *Id.* at 163. At this stage of the instant action, it has become clear that Plaintiff has a potentially meritorious claim which he is ill-equipped to litigate in a trial setting. Attorney Ashleigh Wilson (“Attorney Wilson”) of Bowman and Brooke LLP in Columbia, South Carolina is appointed as *pro bono* counsel to assist Plaintiff in this case and to represent him at trial. Attorney Wilson is ordered to contact her client, as soon as possible, and the Clerk shall enter a scheduling order to serve the purposes of mediation and the trial of this case.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

August 30, 2017
Columbia, South Carolina