

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY, LOUISVILLE DIVISION

Antonio Lee O’Bannon v. Samika Wheat, et al.

No. 3:25-CV-00322-JHM (W.D. Ky. May 18, 2026) · No. 3:25-CV-00322-JHM · Decided May 18, 2026

SUMMARY

The United States District Court for the Western District of Kentucky denied pro se plaintiff Antonio Lee O’Bannon’s motion for appointment of counsel. The court held that no exceptional circumstances warranted appointing counsel under 28 U.S.C. § 1915(e)(1) and found any request for trial counsel premature.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky, Louisville Division
WRITING FOR THE COURT	Joseph H. McKinley Jr., Senior Judge
JURISDICTION	United States District Court for the Western District of Kentucky
DECIDED	May 18, 2026
DOCKET	3:25-CV-00322-JHM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for appointment of counsel in his civil action, either immediately or if the case proceeds to trial. The district court denied the motion.
STANDARD OF REVIEW	Appointment of counsel under 28 U.S.C. § 1915(e)(1) is discretionary and is warranted only upon a showing of exceptional circumstances.
PRECEDENTIAL VALUE	Unpublished district court memorandum and order; limited persuasive value

TOPICS

- civil procedure
- civil rights
- prisoners rights

PRACTICE AREAS

- Civil procedure
- Civil rights
- Prisoner civil rights

QUESTIONS PRESENTED

1. Whether the court should exercise its discretion to appoint counsel for a pro se civil plaintiff under 28 U.S.C. § 1915(e)(1).
2. Whether a request for appointment of counsel to represent plaintiff at a potential trial was premature.

HOLDINGS

1. Appointment of counsel in a civil case is discretionary and is justified only in exceptional circumstances; plaintiff did not establish exceptional circumstances because he did not explain the need for counsel, the issues were not sufficiently complex, and his filings showed that he could adequately represent himself.
2. To the extent plaintiff requested counsel for trial, the request was premature.

KEY QUOTATIONS

"The appointment of counsel in a civil case is not a constitutional right." (1)

"It is a privilege that is justified only by exceptional circumstances." (1)

FACTUAL BACKGROUND

Plaintiff was proceeding pro se in a civil action and requested that the court appoint counsel, without explaining why appointment was necessary. The court reviewed his filings and found him sufficiently articulate and able to present his case. The court also found that the issues were not sufficiently complex to require appointed counsel.

PROCEDURAL HISTORY

Antonio Lee O'Bannon, proceeding pro se, filed a motion for appointment of counsel. The district court determined that he had not shown exceptional circumstances warranting appointed counsel and that any request for counsel at trial was premature.

DISPOSITION

other

CASES CITED

- Lavado v. Keohane, 992 F.2d 601, 605-06 (6th Cir. 1993)
- Childs v. Pellegrin, 822 F.2d 1382, 1384 (6th Cir. 1987)
- United States v. Madden, 352 F.2d 792, 793 (9th Cir. 1965)
- Wahl v. McIver, 773 F.2d 1169, 1174 (11th Cir. 1985)

OPINION

O'Bannon

PER CURIAM.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION
ANTONIO LEE O'BANNON PLAINTIFF
v. CIVIL ACTION NO. 3:25-CV-00322-JHM
SAMIKA WHEAT, et al. DEFENDANTS
MEMORANDUM AND ORDER

Before the Court is pro se Plaintiff Antonio Lee O'Bannon's motion (DN 43) requesting that counsel be appointed for him in this case. It is not clear if he requests counsel now or if this case goes to trial. The appointment of counsel is not a constitutional right in a civil case. *Lavado v. Keohane*, 992 F.2d 601, 605 (6th Cir. 1993). Under 28 U.S.C. § 1915(e)(1),¹ court-enlisted assistance of counsel is not mandatory but merely a matter of discretion. See, e.g., *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (“[T]he appointment of counsel in a civil case is, as is the privilege of proceeding in forma pauperis, a matter within the discretion of the court. It is a privilege and not a right.”) (quoting *United States v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)). “It is a privilege that is justified only by exceptional circumstances.” *Lavado*, 992 F.2d at 606 (quoting *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985)). “In determining whether ‘exceptional circumstances’ exist, courts have examined ‘the type of case and the abilities of the plaintiff to represent himself.’ This generally involves a determination of the ‘complexity of the factual and legal issues involved.’” *Lavado*, 992 F.2d at 606 (citations omitted). Plaintiff does not explain why he should be appointed counsel. The Court finds that the complexity of the issues in this case does not necessitate the appointment of counsel, and a review

1 Section 1915(e)(1) provides that “[t]he court may request an attorney to represent any person unable to afford counsel.” (emphasis added). of the documents filed by Plaintiff in this case reveals that he is sufficiently articulate and able to present his case to the Court. For these reasons, the Court finds that Plaintiff has not set forth any exceptional circumstances warranting appointment of counsel at this time. And, to the extent that he is requesting counsel be appointed to represent him at trial, his request is premature. Accordingly, IT IS ORDERED that Plaintiff's motion (DN 43) is DENIED. Date: May 18, 2026 Ar layf Joseph H. McKinley Jr., Senior Judge United States District Court ce: Plaintiff, pro se Counsel of record 4414.009