

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Robert House v. Co Rouse, et al.

House · No. Civil Action No. 24 CV 235J · Decided March 9, 2026

SUMMARY

The court denied without prejudice Robert House’s motion for appointment of counsel in his 42 U.S.C. § 1983 action alleging Eighth Amendment violations involving excessive force, denial of medical treatment, and denial of meals. Applying the factors governing appointment of counsel under 28 U.S.C. § 1915(e)(1) and Third Circuit precedent, the court concluded that the case was not sufficiently complex and that special circumstances had not been shown. The court stated that it may reconsider appointment of counsel if the case survives dispositive motions and proceeds toward trial.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Maureen P. Kelly
JURISDICTION	United States District Court for the Western District of Pennsylvania
DECIDED	March 9, 2026
DOCKET	Civil Action No. 24 CV 235J
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a pro se inmate proceeding under 42 U.S.C. § 1983, moved to compel discovery and for appointment of counsel. The magistrate judge denied the motion for appointment of counsel without prejudice; the motion to compel was deferred for later consideration.
STANDARD OF REVIEW	Discretionary, case-by-case review under 28 U.S.C. § 1915(e)(1), guided by whether the claim has arguable merit and the Tabron factors.
PRECEDENTIAL VALUE	Unknown; memorandum order from a federal district court with no reporter citation.

TOPICS

- civil procedure
- prisoners rights
- section 1983
- civil rights
- due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should request appointment of counsel for an indigent pro se prisoner under 28 U.S.C. § 1915(e)(1).

HOLDINGS

1. Appointment of counsel was not warranted at that time because, assuming the claims had arguable merit, the relevant factors did not establish special circumstances requiring counsel.

KEY QUOTATIONS

“The list of factors is not exhaustive, but instead should serve as a guidepost for the district courts.”
(Memorandum Order)

“Here, the circumstances cited by Plaintiff are those faced by all prisoner litigants.” (Memorandum Order)

FACTUAL BACKGROUND

Robert House is incarcerated at SCI-Houtzdale and brought a pro se § 1983 action based on alleged Eighth Amendment violations at SCI-Greene. He alleges repeated excessive use of force, denial of medical treatment, and denial of regularly scheduled meals over a 21-day period. He sought declaratory relief and compensatory and punitive damages, and requested appointment of counsel.

PROCEDURAL HISTORY

Robert House filed an amended civil-rights complaint alleging Eighth Amendment violations arising from excessive force, denial of medical treatment, and denial of meals while incarcerated. He sought declaratory, compensatory, and punitive relief and later moved to compel discovery and appoint counsel. The magistrate judge denied appointment of counsel without prejudice and advised that the request could be reconsidered if the action survived dispositive motions and appeared ready for trial.

DISPOSITION

other

CASES CITED

- Parkell v. Danber, 833 F.3d 313, 340 (3d Cir. 2016)
- Montgomery v. Pinchak, 294 F.3d 492, 498 (3d Cir. 2002)
- Tabron v. Grace, 6 F.3d 147, 155, 157 (3d Cir. 1993)
- Parham v. Johnson, 126 F.3d 454, 457-58 (3d Cir. 1997)
- Haines v. Kerner, 404 U.S. 519 (1972)
- Smith-Bey v. Petsock, 741 F.2d 22, 26 (3d Cir. 1984)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA ROBERT HOUSE,)) Plaintiff,) Civil Action No. 24 CV 235J) Magistrate Judge Maureen P. Kelly v.)) Re: ECF No. 49 CO ROUSE, et al.,)) Defendants.) MEMORANDUM ORDER Robert House (“Plaintiff”) is an inmate at the State Correctional Institution at Houtzdale (“SCI -Houtzdale”) and brings this pro se civil rights action pursuant to 42 U.S.C. § 1983.

In his Amended Complaint, House alleges that while housed at the State Correctional Institution at Greene (“SCI – Greene”), Defendants violated his Eighth Amendment rights over a 21-day period through the repeated excessive use of force, denial of medical treatment, and denial of regularly scheduled meals. Plaintiff seeks declaratory relief as well as compensatory and punitive damages.

Presently before this Court is Plaintiff’s Motion to Compel Discovery and Motion to Appoint Counsel, ECF No. 49. For the following reasons, the Court declines to exercise its discretion at this time to request an attorney to represent Plaintiff in the prosecution of this action.¹ Unlike criminal defendants, prisoners and indigent civil litigants have no constitutional or statutory right to counsel.

See, e.g., *Parkell v. Danber*, 833 F.3d 313, 340 (3d Cir. 2016); *Montgomery v. Pinchak*, 294 F.3d 492, 498 (3d Cir. 2002). Under 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” The United States Court of Appeals for the Third Circuit has emphasized “that volunteer lawyer time is extremely valuable” and for that reason district courts should not request counsel “indiscriminately.” *Tabron* 1 Plaintiff’s Motion to Compel Discovery will be addressed in due course. *v. Grace*, 6 F.3d 147, 157 (3d Cir.

1993). It also observed “the significant practical restraints on the district courts’ ability to appoint counsel: the ever-growing number of prisoner civil rights actions filed each year in the federal court; and the limited supply of competent lawyers who are willing to undertake such representation without compensation.” *Id.* Section 1915(e)(1) gives the Court broad discretion to determine whether the appointment of counsel is warranted, and that determination must be made on a case-by-case basis.

Id. As a threshold matter the district court should consider whether the plaintiff’s claim has arguable merit in fact or law. *Parham v. Johnson*, 126 F.3d 454, 457 (3d Cir. 1997). See *Tabron*, 6 F.3d at 155. If the court determines that the claim has some merit, the court should then consider the following factors: 1. the plaintiff’s ability to present his or her own case; 2. the complexity of the legal issues; 3. the degree to which factual investigation will be necessary and the ability of the plaintiff to pursue such investigation; 4. the amount the case is likely to turn on credibility determinations; 5. whether the case will require the testimony of expert witnesses; and 6. whether the plaintiff can attain and afford counsel on his own behalf.

Parham, 126 F.3d at 457. “The list of factors is not exhaustive, but instead should serve as a guidepost for the district courts.” Id. at 458. Assuming for purposes of this Memorandum Order only that this case has some arguable merit, the Court concludes that the balance of the above-cited factors weigh against the appointment of counsel at this time.

In considering factors one and two, the litigant’s ability to present his case and the difficulty of the legal issues involved, it is clear that the issues presented in the complaint are neither difficult nor complex, and nothing in the record indicates that Plaintiff is incapable of presenting his case.

In fact, Plaintiff has amply demonstrated his ability to file motions and advocate on his own behalf and otherwise communicate with the Court. Similarly, the third consideration, the degree to which factual investigation will be necessary and Plaintiff’s ability to conduct such investigation, does not weigh in favor of the appointment of counsel since Plaintiff’s case would basically rely on his testimony and little factual investigation appears necessary.

Further, while it may be that the credibility of witnesses will be at issue, it does no more so than in every case. Finally, it does not appear that proper adjudication will require the testimony of expert witnesses.

The Court also notes that as a pro se litigant, he has the benefit of *Haines v. Kerner*, 404 U.S. 519 (1972), and its progeny, which provide that the court must liberally construe pro se pleadings. Finally, Local Civil Rule 10.C provides that “[a]bsent special circumstances, no motions for the appointment of counsel will be granted until after dispositive motions have been resolved.” See also *Parkell*, 833 F.3d at 340 (“Appointing counsel for an indigent civil litigant is ‘usually only granted upon a showing of special circumstances indicating the likelihood of substantial prejudice to him resulting, for example, from his probable inability without such assistance to present the facts and legal issues to the court in a complex but arguably meritorious case.’”) (quoting *Smith-Bey v. Petsock*, 741 F.2d 22, 26 (3d Cir.

1984)). Here, the circumstances cited by Plaintiff are those faced by all prisoner litigants. Should the case survive dispositive motions and appear ready to proceed to trial, the Court will reconsider his request. Accordingly, the following Order is entered: AND NOW, this 9th day of March, 2026, IT IS HEREBY ORDERED that Plaintiff’s Motion for Appointment of Counsel, ECF No. 49, is DENIED without prejudice.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219.

Failure to file a timely appeal will constitute a waiver of any appellate rights. BY THE COURT: /s/ Maureen P. Kelly United States Magistrate Judge cc: ROBERT HOUSE FY7734 SCI HOUTZDALE P.O. Box 1000 209 Institution Drive Houtzdale, PA 16698-1000 All counsel of record via CM/ECF

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