

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA

Dewayne Scott Cunningham v. Dr. Esbert

Cunningham · No. 2:25-CV-199-WKW · Decided December 10, 2025

SUMMARY

The United States District Court for the Middle District of Alabama denied Plaintiff Dewayne Scott Cunningham’s motion to appoint counsel in his 42 U.S.C. § 1983 action. The court concluded that the issues were not novel or unduly complex and that Plaintiff had not shown exceptional circumstances warranting appointed counsel at that time.

CASE DETAILS

COURT	United States District Court for the Middle District of Alabama
WRITING FOR THE COURT	W. Keith Watkins
JURISDICTION	United States District Court for the Middle District of Alabama
DECIDED	December 10, 2025
DOCKET	2:25-CV-199-WKW
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff in a 42 U.S.C. § 1983 civil action moved for appointment of counsel; the district court denied the motion.
STANDARD OF REVIEW	The court applied its broad discretion in determining whether appointment of counsel was appropriate in a civil case.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Dewayne Scott Cunningham v. Dr. Esbert

TOPICS

- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

- civil rights
- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether the court should appoint counsel for the plaintiff in this civil § 1983 action.

HOLDINGS

1. A plaintiff in a civil case has no constitutional right to appointed counsel.
2. Appointment of counsel in a civil case is an exceptional remedy generally justified only when exceptional circumstances exist, such as when the facts or legal issues are so novel or complex that the assistance of a trained practitioner is required.
3. Appointment of counsel was not warranted at that time because the issues were not novel or unduly complex, Cunningham was able to articulate his claims, and he had not demonstrated exceptional circumstances.

KEY QUOTATIONS

“Generally, appointment of counsel in a civil case is “a privilege that is justified only by exceptional circumstances, such as where the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner.””

“Based on the foregoing, it is ORDERED that Plaintiff’s motion for appointment of counsel (Doc. # 24) is DENIED at this time.”

FACTUAL BACKGROUND

Cunningham brought a civil rights action under 42 U.S.C. § 1983 and proceeded in forma pauperis. He requested appointed counsel because he did not know what to do to continue with the action. The court found that the issues were not novel or unduly complex, that Cunningham could articulate facts and grounds for relief without notable difficulty, and that no exceptional circumstances had been shown.

PROCEDURAL HISTORY

Cunningham was granted leave to proceed in forma pauperis and filed a handwritten motion seeking appointment of counsel. The court reviewed the complaint and record, found no exceptional circumstances, and denied the motion without prejudice to reconsideration if circumstances later warranted.

DISPOSITION

other

CASES CITED

- Kilgo v. Ricks, 983 F.2d 189, 193 (11th Cir. 1993)
- Poole v. Lambert, 819 F.2d 1025, 1028 (11th Cir. 1987) (per curiam)
- Dean v. Barber, 951 F.2d 1210, 1216 (11th Cir. 1992)
- Killian v. Holt, 166 F.3d 1156, 1157 (11th Cir. 1999) (per curiam)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION DEWAYNE SCOTT CUNNINGHAM,) AIS # 190108,)) Plaintiff,))
v.) CASE NO. 2:25-CV-199-WKW) [WO] DR. ESBERT,)) Defendant.) ORDER Before the
court is Plaintiff's handwritten Motion to Appoint Counsel. (Doc. # 24.) A plaintiff in a civil case
has no constitutional right to counsel.

Kilgo v. Ricks, 983 F.2d 189, 193 (11th Cir. 1993) (citing Poole v. Lambert, 819 F.2d 1025, 1028
(11th Cir. 1987) (per curiam)). Generally, appointment of counsel in a civil case is "a privilege that
is justified only by exceptional circumstances, such as where the facts and legal issues are so novel
or complex as to require the assistance of a trained practitioner." Dean v. Barber, 951 F.2d 1210,
1216 (11th Cir.

1992) (quoting Poole, 819 F.2d at 1028). Although Plaintiff has been granted leave to proceed in
forma pauperis (Doc. # 12), and 28 U.S.C. § 1915(e)(1) says that "the court may request an
attorney to represent any person unable to afford counsel" (emphasis added), the court has broad
discretion in deciding whether appointment of counsel is appropriate. Killian v. Holt, 166 F.3d
1156, 1157 (11th Cir.

1999) (per curiam). As grounds for his motion, Plaintiff asks to have an attorney appointed "for
lack of knowing what to do to keep going on with this 42 U.S.C. § 1983." (Doc. # 24.) Upon
review of the record, however, the issues raised in Plaintiff's complaint are not novel or unduly
complex, and it appears that Plaintiff is able to articulate facts and grounds for relief without
notable difficulty.

Furthermore, Plaintiff has not presented any exceptional circumstances that would justify
appointment of counsel at this time. Finally, an Initial Scheduling Order outlining how this action
will proceed was issued in this case on December 3, 2025. (Doc. # 23.) Based on the foregoing, it
is ORDERED that Plaintiff's motion for appointment of counsel (Doc. # 24) is DENIED at this
time.

The court will reconsider this issue at a later date if warranted by the circumstances of this case.
DONE this 10th day of December, 2025. /s/ W. Keith Watkins UNITED STATES DISTRICT
JUDGE