

**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

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

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