

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SYLVESTER LEE TUCKER, :
 :
 Plaintiff :
 :
 V. : CASE NO. 3:04cv1555 (RNC)
 :
 HAYES, ET AL., :
 :
 Defendants. :

RULING AND ORDER

Pending are two motions filed by the plaintiff. In his first motion, he asks that all matters be handled by the undersigned rather than by a magistrate judge and renews his request for appointment of counsel. He also requests a hearing on a motion that he intends to file in the future. The second motion again seeks appointment of counsel.

In support of his first motion, plaintiff states that an order issued in this case by Magistrate Judge Fitzsimmons did not reach him until three days before the deadline for him to return service papers to the court. While the delay in mail is unfortunate, the court notes that plaintiff requested and was granted an extension of time to respond to the order. Thus, he was not prejudiced by the delay in mail.

With certain listed exceptions, a district judge may refer pretrial motions to a magistrate judge for determination. See 28 U.S.C. § 636(b)(1)(A). That practice has been followed in this case and will continue to be followed. Plaintiff's request that

all motions be heard only by the undersigned is denied.

Plaintiff states that he withholds his consent to have motions heard by any magistrate judge. Consent of the parties is required only to permit a magistrate judge to exercise full civil jurisdiction in a case. See 28 U.S.C. § 636(c). Thus, plaintiff's statement does not preclude referral of non-dispositive matters to a magistrate judge.

In both motions, plaintiff renews his request for appointment of counsel. The Second Circuit repeatedly has cautioned the district courts against the routine appointment of counsel. See, e.g., Hendricks v. Coughlin, 114 F.3d 390, 393 (2d Cir. 1997); Cooper v. A. Sargenti Co., 877 F. 2d 170, 172 (2d Cir. 1989). The Second Circuit has made clear that before an appointment is even considered, the indigent person must demonstrate that he is unable to obtain counsel. Hodge v. Police Officers, 802 F.2d 58, 61 (2d Cir. 1986), cert. denied, 502 U.S. 996 (1991).

Plaintiff states that he wrote to several attorneys who declined to represent him. He does not identify the attorneys and does not indicate that he sought legal assistance from Inmates' Legal Assistance Program. Because he has not contacted Inmates' Legal Assistance Program, the court concludes that plaintiff has not clearly shown that he cannot obtain legal assistance on his own.

Further, when deciding whether to appoint counsel, the

