

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FREDERICK PAYNE, SR.,
Plaintiff,

v.

Case No. 3:08cv657 (CFD) (TPS)

FRANCISCO ORTIZ, JR., et al.,
Defendants.

RULING AND ORDER

Plaintiff seeks reconsideration of the May 12, 2010 ruling denying his appointment of pro bono counsel in this action and has filed a second motion for appointment of counsel. For the reasons set forth below, plaintiff's motions are denied without prejudice.

First, a motion for reconsideration must be filed within fourteen days from the filing of the decision from which relief is sought. D. Conn. L. Civ. R. 7(c)1. Here, the plaintiff should have filed any motion for reconsideration by May 26, 2010. Instead he waited over one year to file his motion. The motion for reconsideration is denied as untimely filed. The court will consider the arguments raised in the motion for reconsideration in conjunction with the second motion for appointment of counsel.

The court denied the plaintiff's first motion without prejudice to renewal at a later stage of litigation. The plaintiff now argues that he will be unable to produce witnesses and present his claims at trial without legal assistance.

As the court explained previously, when deciding whether to

appoint counsel, the district court must "determine whether the indigent's position seems likely to be of substance." Hodge v. Police Officers, 802 F.2d 58, 61 (2d Cir. 1986), cert. denied, 502 U.S. 996 (1991). "[E]ven where the claim is not frivolous, counsel is often unwarranted where the indigent's chances of success are extremely slim." Cooper v. A. Sargenti Co., 877 F. 2d 170, 171 (2d Cir. 1989).

The defendants have not yet responded to the remaining claims in this case. Thus, the court has not yet had an opportunity to assess the plaintiff's chances of success. The plaintiff's assertions that his allegations are true, are insufficient to demonstrate that appointment of counsel is warranted. Thus, the motion is denied without prejudice.

The plaintiff's motion for reconsideration [**Doc. #37**] is **DENIED** as untimely filed and his motion for appointment of counsel [**Doc. #38**] is **DENIED** without prejudice to renewal at a later stage of litigation.

SO ORDERED this 26th day of July 2011 at Hartford, Connecticut.

/s/ Thomas P. Smith
Thomas P. Smith
United States Magistrate Judge