

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

PAUL ERIC LEWIS, :
 :
 Plaintiff, :
 :
 v. : CASE NO. 3:14cv1592 (RNC)
 :
 THOMAS CLARK, :
 :
 Defendant. :

RULING ON PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL

The plaintiff seeks appointment of pro bono counsel in this action pursuant to 28 U.S.C. § 1915. (Doc. #32.) For the reasons set forth below, the plaintiff's motion is denied without prejudice.

The Second Circuit repeatedly has cautioned 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).

Further, when deciding whether to appoint counsel, the district court must "determine whether the indigent's position seems likely to be of substance." Id. In Cooper v. Sargenti, the Second Circuit cautioned the district courts against the "routine appointment of counsel" and reiterated the importance of requiring an indigent to "pass the test of likely merit." 877 F.2d at 173-74.

The court explained that "even where the claim is not frivolous, counsel is often unwarranted where the indigent's chances of success are extremely slim." Id. at 171.

Here, the defendant has not yet responded to the plaintiff's allegations. Therefore, the court cannot determine whether plaintiff's claims pass the test of likely merit. Accordingly, plaintiff's motion for appointment of counsel (doc. #32) is DENIED without prejudice to renewal at a later stage of litigation.

SO ORDERED this 11th day of February 2015, at Hartford, Connecticut.

/s/
Donna F. Martinez
United States Magistrate Judge