

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KENNETH FOWLER,

Plaintiff,

ORDER

v.

14-cv-28-wmc

ANGELA E. KROLL, *et al.*,

Defendants.

Plaintiff Kenneth Fowler is presently incarcerated by the Wisconsin Department of Corrections at the Columbia Correctional Institution in Portage. Plaintiff has filed a proposed civil action pursuant to 42 U.S.C. § 1983, and he has requested leave to proceed without prepayment of the filing fee. Now pending before the court is plaintiff's motion for "appointment of counsel." (Dkt. # 6). The motion is denied for reasons set forth briefly below.

First, plaintiff should be aware that civil litigants have no constitutional or statutory right to the appointment of counsel. *E.g.*, *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866 (7th Cir. 2013); *Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997). The court may exercise its discretion in determining whether to recruit counsel *pro bono* to assist an eligible plaintiff who proceeds under the federal *in forma pauperis* statute. *See* 28 U.S.C. § 1915(e)(1) ("The court may request an attorney to represent an indigent civil litigant *pro bono publico.*"); *Luttrell*, 129 F.3d at 936. The court cannot, however, "appoint" counsel to represent an indigent civil litigant; it merely has the discretion to recruit a volunteer in an appropriate case. *Ray*, 706 F.3d at 867.

Second, assuming that plaintiff seeks court assistance in locating a volunteer, his request for such assistance is premature. Before this case may proceed, the court is required by the Prison Litigation Reform Act (the “PLRA”) to screen the complaint and determine whether any portion is frivolous or malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who by law is immune from such relief. *See* 28 U.S.C. § 1915A(b). Because plaintiff is incarcerated the PLRA applies to his case. Until the court completes the screening process and determines whether the case may proceed, plaintiff’s request for assistance in locating volunteer counsel must be denied at this time. Plaintiff may, however, re-file a motion requesting assistance in recruiting volunteer counsel *after* the court has issued a screening order in this case for purposes of 28 U.S.C. § 1915A(b).

ORDER

IT IS ORDERED that plaintiff’s motion for appointment of counsel (Dkt. # 6) is DENIED as premature.

Entered this 6th day of May, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge