

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

CHRISTOPHER W. LACOURCIERE,

Plaintiff,

v.

TODD BENISCH, *et al.*,

Defendants.

ORDER

13-cv-616-wmc

Plaintiff Christopher W. LaCourciere is currently incarcerated by the Wisconsin Department of Corrections. He has filed a proposed civil action pursuant to 42 U.S.C. § 1983, stemming from his arrest by officers employed by the Dane County Sheriff's Department. Plaintiff was found eligible for leave to proceed *in forma pauperis* and directed to remit an initial, partial payment toward the filing fee as required by 28 U.S.C. § 1915(b)(1). He has since made a partial payment of the filing fee as directed and also filed a motion for "appointment of counsel." That motion will be denied for reasons set forth briefly below.

Unlike criminal defendants, civil litigants have no constitutional or statutory right to the appointment of counsel. *See, e.g., Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997); *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866-67 (7th Cir. 2013). The most a court can do is determine 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 any person unable to afford counsel."); *Pruitt v. Mote*, 503 F.3d 647, 653-54 (7th Cir. 2007) (en banc) (noting

that, at most, the federal IFP statute confers discretion “to recruit a lawyer to represent an indigent civil litigant *pro bono publico*”). In other words, a reviewing court only has discretion to recruit a volunteer. *Ray*, 706 F.3d at 867.

The court will not consider a motion for assistance in locating volunteer counsel in this case until after it has screened the complaint as required by the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, and determined whether any portion is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary damages from an individual who by law is immune from such relief. Until the court has completed the screening process required by § 1915A, plaintiff’s motion for counsel is premature.

The court will advise plaintiff in a separate order once the screening process is completed in his case. Thereafter, plaintiff may re-file his request for counsel if (1) he has satisfied the threshold requirement for court assistance in recruiting counsel by showing that he has made reasonable efforts to find a lawyer by providing the names and addresses of at least three lawyers that he has asked to represent him in this case and who turned him down, *Jackson v. County of McLean*, 953 F.2d 1070, 1072-73 (7th Cir. 1992), and (2) he demonstrates that exceptional circumstances exist that would benefit from the assistance of trained legal counsel. *See Santiago v. Walls*, 599 F.3d 749, 763-64 (7th Cir. 2010); *Pruitt*, 503 F.3d at 655-56.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel (dkt. # 6) is DENIED.

Entered this 31st day of October, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge