

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GLENN WESLEY,)	
)	
Plaintiff,)	
)	
vs.)	No. 00-3042-M1V
)	
G. PEPPERS, et al.,)	
)	
Defendants.)	

ORDER DENYING PLAINTIFF'S MOTIONS FOR APPOINTMENT OF COUNSEL

Before the court are two motions of plaintiff Glenn Wesley, proceeding pro se, for appointment of counsel.

A district court is vested with broad discretion in determining whether to appoint counsel for an indigent civil litigant. *McMath v. Alexander*, 486 F. Supp. 156, 157 (M.D. Tenn. 1980); 28 U.S.C. §1915(e) (1). The court need appoint counsel only upon a showing of "exceptional circumstances." *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985); *Willet v. Wells*, 469 F. Supp. 748, 751 (E.D. Tenn. 1977), *aff'd*, 595 F. 2d 1227 (6th Cir. 1979). In determining whether "exceptional circumstances" exist, courts have examined "the type of case and the abilities of the plaintiff to represent himself." *Archie v. Christian*, 812 F.2d 250, 253 (5th Cir. 1987); *see also Poindexter v. Federal Bureau of Investigation*, 737 F.2d 1173, 1185 (D.C. Cir. 1984). This typically involves a determination of the "complexity of the factual and legal issues

involved." *Cookish v. Cunningham*, 787 F.2d 1, 3 (1st Cir. 1986).

In the present case, the court does not find exceptional circumstances warranting the appointment of counsel at this time. Wesley, an inmate, has filed a claim pursuant to 42 U.S.C. § 1983. He claims that the defendants forced him to return and remain in his flooded jail cell where he slipped, fell, and broke a bone in his neck. By the pleadings filed thus far, Wesley has demonstrated a sufficient understanding of the facts to represent himself at this time on this one claim. The pending summary judgment motion focuses solely on whether the actions complained of amount to negligence or whether they state a claim under 42 U.S.C. § 1983. Wesley has responded to this limited issue with his own motion for summary judgment.

Accordingly, plaintiff's motion for counsel is denied.

IT IS SO ORDERED this 18th day of September, 2001.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE