

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

GRADY TAYLOR, JR.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 5:25-cv-484-MTT-ALS
	:	
INVESTIGATOR TREY	:	
BURGAMY, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

Pro se Plaintiff Grady Taylor, Jr., a prisoner at Jefferson County Correctional Institution in Louisville, Georgia, filed a civil rights complaint brought under 42 U.S.C. § 1983. (Doc. 1). He also moved for leave to proceed without prepayment of the filing fee pursuant to 28 U.S.C. § 1915(a) and to appoint counsel. (Docs. 2, 3). For the reasons set forth below, Plaintiff’s motion to appoint counsel is **DENIED**. However, as it appears Plaintiff is unable to pay the cost of commencing this action, his application to proceed *in forma pauperis* (“IFP”) is **GRANTED**.

I. Motion for appointment of counsel

In support of his motion to appoint counsel Plaintiff asserts that he cannot afford to hire counsel, his imprisonment will limit his ability to litigate the case, a trial will likely involve conflicting testimony, and he has unsuccessfully attempted to obtain a lawyer. (Doc. 3, at 1). A district court “may request an attorney to represent any person unable to afford counsel.”¹

¹ The statute, however, does not provide any funding to pay attorneys for their representation or authorize courts to compel attorneys to represent an indigent party in a civil case. *See Mallard v. U.S. Dist. Ct. for S. Dist. of Iowa*, 490 U.S. 296, 310 (1989); *Taylor v. Pekerol*, 760 F. App’x 647, 651 (11th Cir. 2019) (citations omitted) (stating that the district court has no “inherent power” to compel counsel to represent a civil litigant and § 1915(e)(1) provides no such authority).

28 U.S.C. § 1915(e)(1). There is, however, “no absolute constitutional right to the appointment of counsel” in a § 1983 lawsuit. *Poole v. Lambert*, 819 F.2d 1025, 1028 (11th Cir. 1987) (citations omitted). Appointment of counsel is “instead a privilege that is justified only by exceptional circumstances, such as where the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner.” *Id.* (citations omitted). In determining whether a case presents extraordinary circumstances, the Court considers

(1) the type and complexity of the case; (2) whether the plaintiff is capable of adequately presenting his case; (3) whether the plaintiff is in a position to adequately investigate the case; (4) whether the evidence “will consist in large part of conflicting testimony so as to require skill in the presentation of evidence and in cross examination”; and (5) whether the appointment of counsel would be of service to the parties and the court “by sharpening the issues in the case, shaping the examination of witnesses, and thus shortening the trial and assisting in a just determination.” The District Court may also inquire into whether the plaintiff has made any effort to secure private counsel.

DeJesus v. Lewis, 14 F.4th 1182, 1204-05 (11th Cir. 2021) (quoting *Ulmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982)).

The Court has considered Plaintiff’s motion and—after applying the factors set forth above—concludes that appointed counsel is not justified. Plaintiff has demonstrated the ability to litigate his case, including filing pleadings and motions sufficiently setting out his contentions to allow review by this Court. Plaintiff’s case is not complex. Additionally, at this early stage in the litigation, it is unclear if the case will proceed to trial. Thus, there is no basis to conclude that counsel will be needed for the presentation of evidence or cross examination of witnesses. Plaintiff, “like any other litigant[], undoubtedly would [be] helped by the assistance of a lawyer, but [his] case is not so unusual” that appointed counsel is necessary. *Bass v. Perrin*, 170 F.3d 1312, 1320 (11th Cir. 1999).

Accordingly, Plaintiff's motion to appoint counsel (Doc. 3) is **DENIED**. Should it later become apparent that legal assistance is required to avoid prejudice to Plaintiff's rights, the Court, on its own motion, will consider assisting him in securing legal counsel at that time. Consequently, there is no need for Plaintiff to file additional requests for counsel.

II. Motion to Proceed *In Forma Pauperis*

As noted above, Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**. However, even if a prisoner is allowed to proceed IFP, he must pay the full amount of the \$350.00 filing fee in installments based on funds in the prisoner's account. When a prisoner has funds in his account, he must pay an initial partial filing fee of twenty percent of the greater of (1) the average monthly deposits to the prisoner's account, or (2) the average monthly balance in the prisoner's account for the six month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1).

A review of Plaintiff's account certification shows his average monthly deposits for the two and a half months that he was incarcerated before he filed the complaint equaled \$168.19. (Doc. 2-1, at 2-17). Twenty percent of \$168.19 is \$33.64. Accordingly, it is **ORDERED** that Plaintiff pay an initial partial filing fee of \$33.64.

Following payment of the initial partial filing fee, money will be deducted from Plaintiff's account until the filing fee (\$350.00) is paid in full as set forth in § 1915(b) and explained below. It is accordingly **DIRECTED** that the Clerk of Court forward a copy of this **ORDER** to the business manager of the facility in which Plaintiff is incarcerated so that withdrawals from his account may commence as payment towards the filing fee. The district court's filing fee is not refundable, regardless of the outcome of the case, and must therefore be paid in full even if the Plaintiff's complaint (or any part thereof) is dismissed prior to service.

A. Directions to Plaintiff's Custodian

It is **ORDERED** that the warden of the institution wherein Plaintiff is incarcerated, or the sheriff of any county wherein he is held in custody, and any successor custodians, each month cause to be remitted to the Clerk of this Court twenty percent (20%) of the preceding month's income credited to Plaintiff's account at said institution until the \$350.00 filing fee has been paid in full. In accordance with the provisions of the Prison Litigation Reform Act ("PLRA"), Plaintiff's custodian is hereby authorized to forward payments from the prisoner's account to the Clerk of Court each month until the filing fee is paid in full, provided the amount in the account exceeds \$10.00. It is further **ORDERED** that collection of monthly payments from Plaintiff's trust fund account shall continue until the entire \$350.00 has been collected, notwithstanding the dismissal of Plaintiff's lawsuit or the granting of judgment against him prior to the collection of the full filing fee.

B. Plaintiff's Obligations Upon Release

Plaintiff should keep in mind that his release from incarceration/detention does not release him from his obligation to pay the installments incurred while he was in custody. Plaintiff remains obligated to pay those installments justified by the income in his prisoner trust account while he was detained. If Plaintiff fails to remit such payments, the Court authorizes collection from Plaintiff of any balance due on these payments by any means permitted by law. Plaintiff's Complaint may be dismissed if he is able to make payments but fails to do so or if he otherwise fails to comply with the provisions of the PLRA.

III. Conclusion

In conclusion, Plaintiff's motion to appoint counsel (Doc. 3) is **DENIED**, but his motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**, and Plaintiff is **ORDERED** to pay an initial

partial filing fee of \$33.64. While Plaintiff's custodian is ordered to make subsequent payments on Plaintiff's behalf, Plaintiff should note that it is **HIS RESPONSIBILITY** to pay the initial partial filing fee. Thus, Plaintiff must make arrangements with the appropriate official to ensure that the initial partial filing fee is paid in accordance with this Order. Plaintiff shall have **FOURTEEN (14) DAYS** from the date shown on this Order to pay the required initial partial filing fee to the Clerk of Court. Thereafter, Plaintiff's custodian shall remit monthly payments as set forth above.

Plaintiff's failure to pay the initial partial filing fee will result in the dismissal of this action. Plaintiff shall keep the Court informed of any future address change and his failure to do so may result in the dismissal of this action. There will be no service of process in this case upon any Defendant until further order of the Court.

SO ORDERED, this 8th day of January, 2026.

s/ **ALFREDA L. SHEPPARD**
UNITED STATES MAGISTRATE JUDGE