

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**ROBERT JOHNSON,
D.O.C. #L10847,**

Plaintiff,

vs.

Case No. 4:20cv410-MW-MAF

**CAPTAIN A. MASSEY,
SERGEANT A. DOWDEN,
and OFFICER BROWN,**

Defendants.

_____ /

ORDER

In January 2023, a Second Report and Recommendation, ECF No. 73, was entered on Defendants' second, supplemental motion for summary judgment, ECF No. 67. The recommendation was accepted and adopted over the pro se Plaintiff's objections. ECF No. 76. A telephonic status conference will be set before the presiding District Judge at a later time to discuss scheduling the trial of this case. *Id.*

The claims proceeding to trial are Plaintiff's Eighth Amendment claim for the use of excessive force by Defendant Massey, a state law claim for assault and batter against Defendant Massey, an Eighth Amendment failure-to-protect claim against all three Defendants, and a First Amendment retaliation claim against all Defendants. See ECF No. 73. Most claims proceed based on Plaintiff's demonstration of a genuine dispute of material fact. *Id.*

Plaintiff has now filed a motion requesting the appointment of counsel. ECF No. 77. Plaintiff has advised that he is confined in close management and has limited access to the law library. *Id.* at 1-2. He states that he has limited knowledge of the law, so counsel will be better able to present evidence, cross examine witnesses, and handle conflicting testimony at trial.

When Plaintiff previously filed his two motions for the appointment of counsel, ECF Nos. 6 and 26, they were denied as premature. ECF Nos. 7, 27. However, this case is now on the eve of trial. The Court finds that under the circumstances of this case, Plaintiff would be better served by legal representation. Thus, his successive motion for counsel is granted.

Although the motion is granted, Plaintiff is advised that under 28 U.S.C. § 1915(e)(1), the Court may request representation for Plaintiff, but the Court may not compel an attorney to take Plaintiff's case. Accordingly, efforts will be made to secure representation for Plaintiff. He is advised, however, that there is no guarantee that an attorney will agree to take the case. It is imperative that Plaintiff keep the Clerk of Court informed of any change to his address of record on the Court's docket. Counsel must be able to contact Plaintiff and communicate with him in the event an attorney is willing to represent Plaintiff in this case.

Accordingly, it is

ORDERED:

1. Plaintiff's third motion requesting the appointment of counsel, ECF No. 77, is **GRANTED**.
2. This Order requires the Clerk of Court to publish on the Court's website a request for counsel to assist Plaintiff in this case.
3. The Clerk of Court must include within the announcement that counsel shall be provided, without cost and upon request, copies of, or access to, all pleadings filed in this case to date.

4. The scheduling of the pretrial conference shall be delayed until it can be determined whether or not counsel will accept this case and represent Plaintiff at trial.

5. Plaintiff must immediately file a notice of change of address to the Clerk's Office should his address change in any way.

DONE AND ORDERED on March 13, 2023.

s/ Martin A. Fitzpatrick _____
MARTIN A. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE