

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JAMES ZAVAGLIA,

Plaintiff,

v.

BOSTON UNIVERSITY SCHOOL OF  
MEDICINE,

Defendant.

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Civil Action No. 14-cv-13924-IT

ORDER

January 20, 2015

TALWANI, D.J.

Before the court is Plaintiff James Zavaglia's ("Zavaglia") Motion to Appoint Counsel [#3]. For the reasons set forth below, this motion is DENIED without prejudice.

A court "may request an attorney to represent any person unable to afford counsel."<sup>1</sup> Because a civil party lacks a constitutional right to free counsel, however, there is no mandate that a court request pro bono counsel.<sup>2</sup> In determining whether to request counsel, the court considers whether the requesting party is indigent and whether exceptional circumstances exist such that the denial of counsel will result in fundamental unfairness impinging upon the party's due process rights.<sup>3</sup>

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<sup>1</sup> 28 U.S.C. § 1915(e)(1).

<sup>2</sup> See DesRosiers v. Moran, 949 F.2d 15, 23 (1st Cir. 1991).

<sup>3</sup> See id.

The court has granted Zavaglia leave to proceed in forma pauperis.<sup>4</sup> Accordingly, the court focuses on whether the case gives rise to exceptional circumstances sufficient to warrant a request for pro bono counsel. In assessing whether exceptional circumstances exist, the court examines the total situation, including the merits of the case, the complexity of the legal issues, and the litigant's ability to represent himself.<sup>5</sup>

Zavaglia does not identify any exceptional circumstance warranting a request for pro bono counsel, and he has failed to offer any statement about the merits of the case or the complexity of the legal issues involved.<sup>6</sup> Moreover, the court's independent review of Zavaglia's complaint indicates that the relevant facts and law are relatively straightforward. Accordingly, Zavaglia's Motion to Appoint Counsel [#3] is DENIED without prejudice to Zavaglia raising the motion again should later case developments indicate the existence of exceptional circumstances warranting a request for pro bono counsel.

IT IS SO ORDERED.

January 20, 2015

/s/ Indira Talwani  
United States District Judge

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<sup>4</sup> See Order [#5].

<sup>5</sup> See DesRosiers, 949 F.2d at 24.

<sup>6</sup> See Pl.'s Mot. Appoint Counsel [#3].