

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

KIRSTIN SCONIERS,

Plaintiff,

v.

Case No: 5:14-cv-237-RBD-PRL

FNU LOCKHART,

Defendant.

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ORDER

Plaintiff, now proceeding *pro se*, initiated this case by filing a civil rights complaint. The operative complaint is his Second Amended Complaint. (Doc. 131). On October 6, 2016, an Order was entered granting Defendant Lockhart's Motion for Summary Judgment. (Doc. 93).<sup>1</sup> Subsequently, the Eleventh Circuit reversed the dismissal of the sexual-assault and excessive-force claims Plaintiff filed against Defendant Lockhart that arose out of the pepper-spraying and takedown of Plaintiff while incarcerated. (Doc. 114).

Plaintiff was previously appointed counsel. (*See* Doc. 120). Previous counsel "actively developed and advanced the case, including an amended Complaint, significant discovery, and a site visit." (Doc. 136). However, previous counsel withdrew after assuming employment with a government agency. (*See* Docs. 136, 138). Plaintiff was released from custody at the end of October 2020. (*See* Doc. 135 at 1).

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<sup>1</sup> The October 6, 2016 Order also granted Defendant McNeely's motion for summary judgment. *See* Docs. 78, 93. The Eleventh Circuit affirmed summary judgment as to Defendant McNeely and dismissed him from this case. *See* Doc. 114 at fn. 1.

While a plaintiff in a civil case has no constitutional right to counsel, “a court may request an attorney to represent any person unable to afford counsel,” subject to the Court’s discretion. 28 U.S.C §1915(e)(1); *Bass v. Perrin*, 170 F.3d 1312 (11th Cir. 1999). Here, in light of the Eleventh Circuit’s reversal and the status of the case, it will make efforts to secure representation for Plaintiff.

It is hereby requested that a designated **Deputy Clerk of this Court** make efforts to seek counsel to represent Plaintiff from available sources of attorneys interested in handling *pro bono* opportunities. The **Deputy Clerk** is directed to contact any of our local bar associations<sup>2</sup> to discuss the possibility of posting the request to assist this *pro se* litigant. The correspondence shall include the case number, a copy of this order, and the following brief factual summary:

Plaintiff has filed a complaint pursuant to 42 U.S.C. § 1983 alleging constitutional violations arising from events occurring during his incarceration at the Marion County Jail. Plaintiff claims Defendant Lockhart violated his Eighth Amendment rights during a purported disciplinary encounter. The remaining issues are whether Defendant Lockhart used excessive force in violation of the Eighth Amendment when he pepper-sprayed and used a take-down maneuver on Plaintiff and whether Defendant Lockhart sexually assaulted Plaintiff.

The correspondence should also state that pursuant to the Middle District’s Civil Pro Bono Appointment Program, the appointed attorney is permitted to be reimbursed for certain costs incurred during the representation. Information regarding allowable costs and the procedure for obtaining reimbursement is available on the Court’s website, [www.flmd.uscourts.gov](http://www.flmd.uscourts.gov).

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<sup>2</sup> These include, but are not limited to: the Marion County Bar Association; Sumter County Bar Association; Citrus County Bar Association; Lake County Bar Association; Alachua County Bar Association; and area chapters of the Federal Bar Association (e.g., North Central Florida, Jacksonville, Orlando, and Tampa Bay chapters).


The **Deputy Clerk** shall note on the docket which bar associations were contacted, by what means, and on what date. The correspondence should be sent no **later than 5 days from the date of this Order**.

If counsel wishes to represent Plaintiff, he or she should contact the Deputy Clerk to notify them of his or her intent **within 30 days of the date of this Order**, and the Deputy Clerk will notify the undersigned. Upon consent of the Plaintiff, the appointed counsel shall enter of notice of appearance. If no counsel enters an appearance on behalf of Plaintiff within **45 days** of the date of this Order, the case will proceed without counsel for Plaintiff.<sup>3</sup>

**Plaintiff must be aware that there is no guarantee that an attorney will agree to take his case and represent him.**

**IT IS SO ORDERED.**

**DONE AND ORDERED** at Ocala, Florida, this 8th day of March 2021.

  
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PHILIP R. LAMMENS  
United States Magistrate Judge

Copies to: *Pro Se* Plaintiff  
Deputy Clerk

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<sup>3</sup> If Plaintiff ends up proceeding pro se, he is cautioned that despite proceeding pro se, he would be required to comply with this Court's Local Rules, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence. He may obtain a copy of the Local Rules from the Court's website (<http://www.flmd.uscourts.gov>) or by visiting the Office of the Clerk of Court. Also, resources and information related to proceeding in court without a lawyer, including a handbook entitled Guide for Proceeding Without a Lawyer, can be located on the Court's website ([http://www.flmd.uscourts.gov/pro\\_se/default.htm](http://www.flmd.uscourts.gov/pro_se/default.htm)). Plaintiff should also consult the Middle District of Florida's Discovery Handbook for a general discussion of this District's discovery practices (see <http://www.flmd.uscourts.gov/civil-discovery-handbook>).