UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

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| CHRISTOPHER BANKS | : | |
| | : | |
| v. | : | C.A. No. 21-00179-WES |
| | : | |
| WALTER DUFFY, et. al. | : | |

**MEMORANDUM AND ORDER**

Before this Court is Plaintiff Christopher Banks' Motion for Appointment of Counsel. (ECF No. 3). The Motion for Appointment of Counsel has been referred to me for determination. 28 U.S.C. § 636(b)(1)(A); LR Cv 72(a). For the reasons set forth below, Plaintiff's Motion for Appointment of Counsel (ECF No. 3) is DENIED.

In the appropriate case, the Court may "request an attorney to represent any person unable to afford counsel" in a civil case. 28 U.S.C. § 1915(e)(1). However, there is no absolute right to appointed counsel in a civil case. DesRosiers v. Moran, 949 F.2d 15, 23-24 (1st Cir. 1991). Plaintiff bears the burden of demonstrating that "exceptional circumstances [a]re present such that a denial of counsel [i]s likely to result in fundamental unfairness impinging on his due process rights." DesRosiers, 949 F.2d at 23. In determining whether exceptional circumstances exist, the Court must examine the total situation, considering inter alia, the merits of the case, the complexity of the legal issues and the litigant's ability to represent himself. Id. In this case, Plaintiff has not demonstrated "exceptional circumstances" sufficient to convince the Court that he is entitled to appointed counsel in this civil action.

From a review of the documents filed in this case to the present time, the Court finds that Plaintiff has the capacity to prosecute the claim and that Plaintiff has a basic understanding of the legal procedures to be followed. Although Plaintiff asserts that he has a limited knowledge of the

law, his submissions to the Court have clearly set forth his claims and have been easy to understand. Thus, the Court determines that Plaintiff does not, at this time, meet the test for appointment of counsel and will, therefore, be required to prosecute this action pro se.

IT IS THEREFORE ORDERED, that Plaintiff's Motion for Appointment of Counsel (ECF No. 3) is DENIED without prejudice.

SO ORDERED

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
May 3, 2021