

98 CV 446 - EHN - MO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THOMAS J. JORDAN,

98 CV 446

Plaintiff.

MEMORANDUM

-against-

AND
ORDER

NYDIA VELASQUEZ, Congresswoman, and
THE DEPARTMENT OF VETERANS AFFAIRS,

Defendants.

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THOMAS J. JORDAN
222 61st Street
Brooklyn, New York 11220
plaintiff pro se.

ZACHARY W. CARTER, United States Attorney
Eastern District of New York
Civil Division
(Sandra Lynn Levy, of counsel)
One Pierrepont Plaza
Brooklyn, New York 11201
for defendant.

NICKERSON, District Judge:

Plaintiff Thomas J. Jordan requests appointment of
counsel in his 42 U.S.C. § 1983 case.

Cooper v. A. Sargenti Co., 877 F.2d 170 (2d Cir.
1989), articulates the factors the Court must consider

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whether appointment of counsel for an indigent litigant:

(1) whether the indigent's position seems likely to be of substance, (2) the indigent's ability to investigate the crucial facts, (3) whether conflicting evidence implicating the need for cross examination will be the major proof presented to the fact finder, (4) the indigent's ability to present the case or obtain private counsel, (5) the complexity of the legal issues, (6) the availability of counsel, and (7) and special reasons why appointment of counsel would be likely to lead to a more just determination.

In Cooper, the Court of Appeals for the Second Circuit emphasized that a court should closely scrutinize the apparent merits of the indigent's claim to determine if it is likely to be of substance. 877 F.2d at 172. Only if the claim meets this "threshold requirement" should the other criteria be considered. Id. (quoting Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986)).

The court cannot say at this time whether plaintiff's claims are likely to be of substance.

Since the required requirement has not been met, the court will consider the other factors.

At the present time, the court denies plaintiff's motion for appointment of counsel. The court will consider the motion or renewal as the case progresses.

SO ORDERED.

Dated: Brooklyn, New York
August 9, 1988


Eugene H. Nickerson, U.S.D.J.