

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



LATASHA HOLLOWAY,

Plaintiff,

v.

ACTION NO. 2:18cv69

CITY OF VIRGINIA BEACH, VIRGINIA,

Defendant.

ORDER

This matter is before the Court on (i) Plaintiff's Motion for Enlargement of Time to Respond to Defendant ("Motion for Extension"), and (ii) Plaintiff's Renewed Motion for Appointment of Counsel. Mot. for Extension, ECF No. 23; Renewed Mot. for Appointment of Counsel, ECF No. 24. For the reasons set forth below, Plaintiff's Motion for Extension, ECF No. 23, is **GRANTED**, and Plaintiff's Renewed Motion for Appointment of Counsel, ECF No. 24, is **DENIED** at this time without prejudice.

I. Background

In this action, Plaintiff, appearing *pro se*, claims that the at-large election system used to elect the members of the Virginia Beach City Council "unlawfully dilut[es] or minimiz[es] 'minority voting strength,'" and violates certain statutory and constitutional rights. Compl. at 2, ECF No. 5. On February 12, 2018, the Court entered an Order that, among other things, denied Plaintiff's Motion for Appointment of Counsel "at this time without prejudice." Order at 2, ECF No. 4. On February 15, 2018, Plaintiff appealed the Court's denial of her Motion for

Appointment of Counsel to the United States Court of Appeals for the Fourth Circuit. Notice of Appeal, ECF No. 7.

Defendant filed a Motion to Dismiss on April 10, 2018. Mot. to Dismiss, ECF No. 13. On April 12, 2018, the Court stayed this action “pending the resolution of Plaintiff’s appeal to the Fourth Circuit.” Order at 2, ECF No. 18. In its April 12, 2018 Order, the Court stated:

Because this action is stayed at this time, the parties need not submit response or rebuttal briefs to Defendant’s Motion to Dismiss, as otherwise directed by Rule 7(F) of the Local Rules of the United States District Court for the Eastern District of Virginia, at this time. After the stay is lifted, the Court will issue an Order providing further instruction regarding the applicable briefing schedule for Defendant’s Motion to Dismiss.

Id.

The Fourth Circuit dismissed Plaintiff’s appeal for lack of jurisdiction on April 24, 2018, and issued its mandate on May 16, 2018. Op., ECF No. 19; Mandate, ECF No. 21. With Plaintiff’s appeal resolved, this Court entered an Order on May 21, 2018, that (i) lifted the previously imposed stay, and (ii) established a briefing schedule for Defendant’s Motion to Dismiss. Order, ECF No. 22. The Court stated:

To the extent Plaintiff wishes to file a response brief in opposition to Defendant’s Motion to Dismiss, Plaintiff is **DIRECTED** to do so within twenty-one days from the date of entry of this Order. To the extent Defendant wishes to reply to any response brief filed by Plaintiff, Defendant is **DIRECTED** to do so within six days after the service of Plaintiff’s response brief.

Id. at 2.

II. Motion for Extension

On May 22, 2018, Plaintiff filed a Motion for Extension in which she requests “additional time” to respond to Defendant’s Motion to Dismiss. Mot. for Extension at 2, ECF No. 23. Plaintiff seeks “additional time” to enable her to “retain legal counsel.” *Id.* The Court hereby

GRANTS Plaintiff's request. To the extent Plaintiff wishes to file a response brief in opposition to Defendant's Motion to Dismiss, Plaintiff is **DIRECTED** to do so within forty-five days from the date of entry of this Order. To the extent Defendant wishes to reply to any response brief filed by Plaintiff, Defendant is **DIRECTED** to do so within fourteen days after the service of Plaintiff's response brief.

III. Renewed Motion for Appointment of Counsel

Plaintiff also filed a Renewed Motion for Appointment of Counsel on May 22, 2018.

Renewed Mot. for Appointment of Counsel, ECF No. 24. In her motion, Plaintiff argues:

The appointment of counsel is justified to assist in the preparation of responsive pleadings, affidavits, briefs, discovery, amendments, etc., that exceptional circumstances exist in this complex case, and [P]laintiff lacks the legal and financial capability to investigate the critical issues that are so complex that, as a pro se litiga[nt], she can not reasonably be required to present this case with any effectiveness that legal assistance is necessary in the interest of justice for the fair presentation of a proper case to the Court.

Id. at 3. Plaintiff also argues that (i) she “has made a reasonable good faith effort to secure representation . . . without success,” (ii) she “suffers from cognitive impairment and cares for her special needs children and a parent which suffers from [an] intellectual disability and depression, that hinders her ability to focus and prosecute [this] case,” (iii) she “believes she will likely succeed on the merits,” and (iv) she believes Defendant “will not be prejudiced by granting the motion.” *Id.* at 3-4.

Here, the Court finds that, at this time, Plaintiff still has not established that this is an “exceptional” case that would justify the appointment of counsel. *See Cook v. Bounds*, 518 F.2d 779, 780 (4th Cir. 1975) (explaining that “in civil actions[,] the appointment of counsel should be allowed only in exceptional cases”); *Ferrer v. Garasimowicz*, No. 1:13cv797, 2013 U.S. Dist. LEXIS 139939, at *3 (E.D. Va. Sept. 27, 2013) (stating that appointment of counsel in civil cases

is limited to “meritorious cases involving particularly complex factual or legal issues”). Accordingly, Plaintiff’s Renewed Motion for Appointment of Counsel, ECF No. 24, is **DENIED** at this time without prejudice.

IV. Conclusion

For the reasons set forth above, Plaintiff’s Motion for Extension, ECF No. 23, is **GRANTED**. To the extent Plaintiff wishes to file a response brief in opposition to Defendant’s Motion to Dismiss, Plaintiff is **DIRECTED** to do so within forty-five days from the date of entry of this Order. To the extent Defendant wishes to reply to any response brief filed by Plaintiff, Defendant is **DIRECTED** to do so within fourteen days after the service of Plaintiff’s response brief. Further, Plaintiff’s Renewed Motion for Appointment of Counsel, ECF No. 24, is **DENIED** at this time without prejudice.

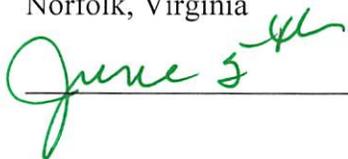
The Clerk is **DIRECTED** to send a copy of this Order to Plaintiff and counsel for Defendant.

IT IS SO ORDERED.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

 _____, 2018