UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

COREY DAY, JUAN EVORA, et al.

v. **C.A. NO. 08-94 ML**

ASHBEL T. WALL, et al.

MEMORANDUM AND ORDER

Jacob Hagopian, Senior United States Magistrate Judge

Plaintiffs, *pro se*, are 15 current or former inmates in the custody of the Rhode Island Department of Corrections in Cranston, Rhode Island. They allege that they are Muslims and the named defendants are violating their civil rights by actions including: (i) refusing to serve meals in accordance with the dictates of Islam; (ii) obstructing the performance of their daily prayer; (iii) harassing them because they are Muslim; and (iv) prohibiting them from wearing skull caps as required by Islam. Presently before the Court are three motions filed by one plaintiff allegedly on behalf of all 15 plaintiffs: (i) two motions to appoint counsel to represent the class (Dockets ## 21 & 22) and (ii) a motion for an extension of time to respond to defendants' motion to dismiss (Docket # 22). Defendants have objected to all of these motions (Dockets ## 23 & 24). For the reasons that follow, the motions are DENIED.

I. PRELIMINARY PROCEDURAL ISSUE

As a preliminary procedural matter, I note that plaintiffs' motions were signed by only Corey Day, one of the 15 co-plaintiffs. By law, an individual may appear in federal court only *pro se* or through legal counsel. 28 U.S.C. s 1654. *Pro se* litigants may not appear for others in federal courts, and, thus, plaintiff Day, who is not an attorney, lacks the representative capacity to file motions and other documents on behalf of the other plaintiffs. *See Herrera-Venegas v.*

Sanchez-Rivera, 681 F.2d 41, 42 (1st Cir. 1982) ("federal courts have consistently rejected attempts at third-party lay representation"). Further, Rule 11(a) of the Federal Rules of Civil Procedure (the "Federal Rules") requires that, if a party is not represented by an attorney, the party must sign every pleading, written motion and other paper. The rule directs that "an unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party." Fed.R.Civ.P. 11(a). In the case of multiple *pro se* plaintiffs, each plaintiff must sign each pleading, written motion and other paper. *See cf., e.g., Casanova v. Dubois*, 289 F.3d 142 (1st Cir. 2002)(all defendants required to sign notice of appeal). Nonetheless, rather than simply deny these motions for lack of proper signatures, I have reviewed these motions because I believe it would be futile for plaintiffs to re-file such motions with signatures of all co-plaintiffs at this time.

II. MOTIONS TO APPOINT COUNSEL

In the appropriate case, the Court "may request an attorney to represent any person unable to afford counsel" in a civil action. 28 U.S.C. § 1915(e). However, there is no absolute constitutional right to a "free lawyer" in a civil case. *DesRosier v. Moran*, 949 F.2d 15, 23 (1st Cir. 1991). Absent exceptional circumstances, the Court cannot appoint counsel in a civil matter. *Id*. 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*.

Here, I have reviewed plaintiffs' complaint and the motions that they have filed in this case. I first note that they have not established, or attempted to establish, their financial need for counsel – they are not proceeding *in forma pauperis* and have not presented any financial statements. Further, the issues presented in the complaint are not so complex that plaintiffs are

unable to represent themselves. Moreover, plaintiffs' filings demonstrate that they are able to present the facts and the issues themselves. Accordingly, plaintiffs' motion to request the Court to appoint counsel is **DENIED** at this time.

III. MOTION FOR EXTENSION OF TIME TO FILE RESPONSE

Defendants filed a motion to dismiss on August 21, 2008 (Docket # 20), and plaintiffs' response thereto was due by September 8, 2008. Plaintiffs moved for an extension of time pursuant to Federal Rule 6(b) to respond to defendants' motion to dismiss. However, after filing this motion, plaintiffs filed a response to defendants' motion to dismiss (the "Response") (Docket #26). Accordingly, plaintiffs' motion for an extension of time is **DENIED** as moot. However, as only Corey Day signed the Response, the 14 remaining co-plaintiffs shall have 20 days from the date of this Memorandum and Order to sign the Response, either by re-filing a copy of the Response signed by all parties or filing separate notices indicating their endorsement of the Response.

IT IS SO ORDERED.

/s/ Jacob Hagopian
Jacob Hagopian
Senior United States Magistrate Judge
October 14, 2008