

1 MR. BYERLEY: Nothing.

2 THE COURT: All right. Well, you've all raised a lot
3 for me to think about here. I will work on this as quickly as I
4 can as time permits. I'm not totally the master of my own time.
5 And, as I said, I'll be issuing a report and recommendation to
6 Judge McKeague on all three motions then with your permission,
7 and then you'll have an opportunity to appeal all or part of what
8 I do -- I'm sorry, I shouldn't say appeal -- ask for de novo
9 review.

10 There is a motion that is within my jurisdiction to
11 dispose of and that's the motion for the appointment of counsel,
12 Mr. Lawrence. The Court of Appeals has told us that in reviewing
13 these issues of appointment of counsel, first of all, we ought to
14 keep in mind that it's not an appointment really; it's getting a
15 lawyer to volunteer his or her time because in a civil case
16 there's no right to appointment like there is in a criminal case.
17 And one of the most important discretionary factors is the
18 ability of the person to articulate his or her case on their own
19 without the help of counsel. And having heard you today I would
20 say that you're in the top 25 percent of lawyers that I see in
21 this court day in and day out, and your ability to deal with the
22 facts and the law, answer questions, synthesize arguments.

23 Generally we'll invoke that administrative order that
24 allows for so-called appointment of counsel for indigent
25 plaintiffs, mainly prisoners, uneducated, who have a hard time