

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

**FILED**

MAR 23 2013

PHILLIP M. OLIVER,

Plaintiff,

v.

ANDREW HAYES and  
JUDGE ROBIN ADAIR,

Defendants.

WILLIAM B. GUTHRIE  
Clerk, U.S. District Court  
By \_\_\_\_\_  
Deputy Clerk

No. CIV 12-020-RAW-SPS

**OPINION AND ORDER**

Plaintiff has filed a motion concerning his initial partial filing fee [Docket No. 24] as set forth in the court's February 14, 2012, order granting leave to proceed *in forma pauperis* [Docket No. 6]. The court's order directed plaintiff to pay the entire filing fee of \$350.00 with an initial partial filing fee of \$6.00, which was paid on April 26, 2012, leaving a balance of \$344.00. Plaintiff remains obligated to pay this balance in accordance with the court's order of February 14, 2012. Therefore, to the extent he is contesting additional payments on the balance of the filing fee, the motion is denied.

Plaintiff also makes a second request for appointment of counsel in his motion, because he has vision limitations, and the inmate who was assisting him with his legal work no longer is at the plaintiff's facility. He still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court again has carefully reviewed the merits of plaintiff's claim, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After reconsideration of plaintiff's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *See also Rucks v.*

*Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

**ACCORDINGLY**, plaintiff's motion regarding his filing fee and his second request for appointment of counsel [Docket No. 24] is **DENIED**.

**IT IS SO ORDERED** this 26<sup>th</sup> day of March 2013.

  
**RONALD A. WHITE**  
**UNITED STATES DISTRICT JUDGE**