# United States Court of Appeals
## For the Eighth Circuit

No. 15-2183

Vincent M. Cooper

*Plaintiff - Appellant*

v.

Carlton D. Jones, Prosecuting Attorney, Miller County

*Defendant - Appellee*

Appeal from United States District Court
for the Western District of Arkansas - Texarkana

Submitted: January 20, 2016
Filed: January 26, 2016
[Unpublished]

Before BENTON, BOWMAN, KELLY, Circuit Judges.

PER CURIAM.

Vincent M. Cooper appeals after the district court[1] dismissed his 42 U.S.C. § 1983 complaint and denied his motions for appointment of counsel and for leave

[1]The Honorable Susan O. Hickey, United States District Judge for the Western District of Arkansas.

to amend his complaint. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

Cooper's complaint sought postconviction access to DNA testing of certain evidence used at his criminal trial. Upon de novo review, this court concludes that the dismissal was proper. *See Dist. Attorney's Office for Third Judicial Dist. v. Osborne*, 557 U.S. 52, 69, 72-75 (2009) (discussing contours of substantive and procedural due process rights related to postconviction access to DNA testing); *Schaaf v. Residential Funding Corp.*, 517 F.3d 544, 549 (8th Cir. 2008) (grant of motion to dismiss is reviewed de novo). The district court did not abuse its discretion in denying Cooper's motions. *See Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006) (abuse-of-discretion standard applies to denial of motion for appointment of counsel; discussing relevant factors); *Joshi v. St. Luke's Hosp., Inc.*, 441 F.3d 552, 555, 557-58 (8th Cir. 2006) (abuse-of-discretion standard applies to denial of motion for leave to amend complaint; denial may be justified by futility of amendment).

The judgment of the district court is affirmed. *See* 8th Cir. R. 47B.

---