

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

RUBBY JAMES GRAY

PLAINTIFF

v.

No: 3:17-cv-00323 BSM-PSH

KEITH BOWERS, *et al.*

DEFENDANTS

ORDER

Before the Court is a motion for appointment of counsel filed by plaintiff Rubby James Gray (Doc. No. 54). The motion is DENIED. A civil litigant does not have a constitutional or statutory right to appointed counsel in a civil action, but the Court may appoint counsel at its discretion. 28 U.S.C. § 1915(e)(1). The Court has considered plaintiff's need for an attorney, the likelihood that plaintiff will benefit from assistance of counsel, the factual complexity of the case, the plaintiff's ability to investigate and present his case, and the complexity of the legal issues. In considering these factors, the Court finds that plaintiff's claims do not appear legally or factually complex, and it appears he is capable of prosecuting his claims without appointed counsel at this time.

Plaintiff also moves for a hearing in this case. There is no need for a hearing at this time. The Court will rule on defendants' pending motions for summary judgment in due course. If plaintiff intends to respond to the motion for summary judgment filed by defendants Keith Bowers and Todd Harrell (Doc. No. 51), the response must be filed within fourteen (14) days of this order's entry date. In opposing the motion for summary judgment, plaintiff may attach affidavits that he or others have signed. Because affidavits are sworn statements, they must be either notarized or

declared under penalty of perjury (*see* 28 U.S.C. § 1746). Unsworn statements will not be considered in deciding the motion for summary judgment. And to be considered, an affidavit must be based on personal knowledge of the person who signs it. If plaintiff files a response, he must also file a separate, short statement setting forth the disputed facts that he believes must be decided at trial. *See* Local Rule 56.1, Rules of the United States District Court for the Eastern District of Arkansas. While plaintiff is not required to file a response to the motion for summary judgment, if he does not respond, the Court can assume that the facts set out in the statement of facts are true.

IT IS SO ORDERED this 7th day of January, 2019.



UNITED STATES MAGISTRATE JUDGE