

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

DANNY LEWIS

PLAINTIFF

V.

NO: 4:12CV00208 JMM/HDY

DOC HOLLADAY *et al.*

DEFENDANTS

ORDER

Plaintiff filed this complaint on April 5, 2012. On July 10, 2012, Plaintiff was appointed counsel for the limited purpose of obtaining service on Defendant Barbara Hamilton. Hamilton has now been served, and has filed an answer (docket entry #31). Accordingly, attorney Matthew Stephen Modelevsky will be relieved as counsel for Plaintiff.

Plaintiff has now moved for appointment of counsel (docket entry #32). It is well settled that a *pro se* litigant has no statutory or constitutional right to have counsel appointed in a civil case. *Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir. 1998). However, the Court may, in its discretion, appoint counsel for a *pro se* prisoner if it is convinced that he has stated a non-frivolous claim and that the nature of the litigation is such that the plaintiff, as well as the Court, will benefit from the assistance of counsel. *Johnson v. Williams*, 788 F.2d 1319, 1322 (8th Cir. 1986). In making this determination, the Court must weigh and consider the following factors: (1) the factual and legal complexity of the case; (2) the plaintiff's ability to investigate the facts; (3) the presence or absence of conflicting testimony; and (4) the plaintiff's ability to present his claims. *Id.* at 1322-23. These factors are not an exclusive checklist, and the "weight to be given any one factor will vary with the case." *Id.* at 1323; *see also Stevens*, 146 F.3d at 546; *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996).

Plaintiff's claims are not legally or factually complex. Furthermore, it appears from the record that Plaintiff is capable of presenting his claims without the benefit of appointed counsel. Thus, the Court concludes that the pertinent factors do not weigh in favor of appointment of counsel at this time.

IT IS THEREFORE ORDERED THAT:

1. Attorney Matthew Stephen Modelevsky is relieved as counsel of record for Plaintiff, with the Court's gratitude for his service.
2. Plaintiff's motion for appointment of counsel (docket entry #32) is DENIED.
3. The Clerk is directed to send a copy of this order to Plaintiff at his address of record (docket entry #25).

DATED this 12 day of September, 2012.



UNITED STATES MAGISTRATE JUDGE