

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

TYRONE V. MOSES,
ADC #153122

PLAINTIFF

v.

4:12CV00489-DPM-JTK

LPN WINTER, et al.

DEFENDANTS

ORDER

This matter is before the Court on Defendants' Motion for Summary Judgment (Doc. No. 23). By Order dated July 22, 2013, this Court directed Plaintiff to file a Response to the Motion within fifteen days (Doc. No. 27). Plaintiff filed a Response, stating he does not understand the Court's Order and cannot afford to hire an attorney, and asks the Court for "help." (Doc. No. 27).

The Court construes Plaintiff's Response as a Motion for Extension of Time, and will grant him an additional thirty days in which to respond to Defendants' Motion. Plaintiff's Response shall address Defendants' arguments that they treated Plaintiff for his medical conditions and that they did not act with deliberate indifference to his serious medical need.

To the extent that Plaintiff's Response should be construed as a request for Counsel, the Court will deny such at this time. While a pro se litigant has no statutory or constitutional right to appointed counsel in a civil case, Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998), the Court may, in its discretion, appoint counsel for non-frivolous claims where "the nature of the litigation is such that 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 evaluating the plaintiff's request in Johnson, the Court considered four 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

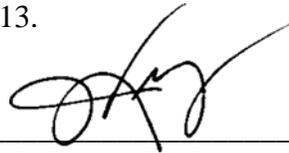
plaintiff's ability to present his claims. Id. at 1322-23.

Having considered the above factors, the Court finds that Plaintiff's request should be denied at this time. Plaintiff's claims are not legally or factually complex, and the record demonstrates Plaintiff is capable of proceeding without the benefit of appointed counsel. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Extension of Time (Doc. No. 27) is GRANTED. Plaintiff shall file a Response to Defendants' Motion for Summary Judgment within **thirty** days of the date of this Order. Failure to respond will result in: (a) all of the facts set forth in Defendants' summary judgment papers being deemed admitted by Plaintiff, pursuant to Local Rule 56.1(c); or (b) the dismissal without prejudice of Plaintiff's Complaint, for failure to prosecute, pursuant to Local Rule 5.5(c)(2).

Plaintiff's request for the appointment of counsel is DENIED without prejudice.

IT IS SO ORDERED this 13th day of September, 2013.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE