

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

TED HAMILTON

PLAINTIFF

v.

Civil No. 4:13-cv-4038

JAMES SINGLETON; JOAN
MCCLEAN; JOHNNY GODBOLT;
and STEPHEN GLOVER

DEFENDANTS

ORDER

Before the Court is Plaintiff's Motion for a Court Appointed Expert (ECF No. 34). The Defendants did not respond. The Court finds this matter ripe for consideration.

In his Motion, Plaintiff moves the Court to appoint an expert in orthopedics and to order Defendants to pay for such expert.

Pursuant to Federal Rule of Evidence 706 the Court may appoint an expert witness on the motion of either party and order the parties to share the costs of the expert. Here, however, the Court finds an orthopedic expert unnecessary as the medical records in the record clearly demonstrate the relevant facts at issue.

Further, the Court will not order Defendants to bear the sole burden of an expert requested by Plaintiff. *See Paschall v. Kansas City Star Co.*, 695 F.2d 322, 339 (8th Cir.1982) (expert witness fees are not recoverable as costs unless the testimony of the expert was indispensable or crucial to the issues decided in the case). Plaintiff's requests that Defendant pay for the cost of an expert to support Plaintiff's claim is premature.

Lastly, the Court will not appoint an expert witness to testify in support of Plaintiff's claim

at the cost of the government. Even though Plaintiff is proceeding *in forma pauperis* in this matter, 28 U.S. C. § 1915 does not authorize the payment of Plaintiff's cost incurred in litigating this section 1983 claim. *U.S. Marshals v. Means*, 741 F.2d 1053, 1057 (8th Cir. 1984). More specifically, Congress has not authorized the payment of an *in forma pauperis* plaintiff's expert witness fees. *See Hannah v. United States*, 523 F.3d 597, 601 (5th Cir. 2008); *see also Kruitbosch v. Van De Veire*, 978 F.2d 1267 (10th Cir.1992) ("Congress has not made provision for payment of expert witness fees for indigent plaintiffs in civil actions.").

Accordingly, Plaintiff's Motion for a Court Appointed Expert (ECF No. 34) is **DENIED**.

IT IS SO ORDERED this **28th day of March 2014**.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE