

DJW/1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**MARK ANTHONY ROBINSON,****Plaintiff,****CIVIL ACTION****v.****No: 08-2645-JWL-DJW****UNITED PARCEL SERVICE, INC., et al.,****Defendants.**

**ORDER**

This is an employment discrimination action alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.* Pending before the Court is Plaintiff's Motion to Appoint Counsel (doc. 31) filed pursuant to 42 U.S.C. § 2000e-5(f).

The district court may, in its discretion, appoint counsel for a plaintiff in an employment discrimination action.<sup>1</sup> The discretion granted to the court is extremely broad.<sup>2</sup> A plaintiff has no constitutional or statutory right to appointed counsel in a federal civil case.<sup>3</sup>

To guide the court's discretion, the Tenth Circuit has identified several factors to be considered when evaluating a motion for appointment of counsel in a Title VII case.<sup>4</sup> Before counsel may be appointed, the plaintiff "must make affirmative showings of (1) financial inability to pay for counsel; (2) diligence in attempting to secure counsel; and (3) meritorious allegations of

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<sup>1</sup>*Castner v. Colorado Springs Cablevision*, 979 F.2d 1417, 1420 (10th Cir. 1992). *See also* 42 U.S.C. § 2000e-5(f).

<sup>2</sup>*Castner*, 979 F.2d at 1420.

<sup>3</sup>*Id.*

<sup>4</sup>*See id.* at 1420-21.

discrimination.”<sup>5</sup> In addition, “the plaintiff’s capacity to present the case without counsel . . . should be considered in close cases as an aid in exercising discretion.”<sup>6</sup>

The Court has reviewed Plaintiff’s Application for Appointment of Counsel under these standards. Based on the Court’s review of the Complaint and the investigative file of the Equal Employment Opportunity Commission,<sup>7</sup> the Court finds Plaintiff’s claims do not have sufficient merit to warrant the appointment of counsel. Accordingly, the Court will deny Plaintiff’s request for counsel.

**IT IS THEREFORE ORDERED** that Plaintiff’s Motion to Appoint Counsel (doc. 31) is denied.

**IT IS SO ORDERED.**

Dated at Kansas City, Kansas on this 10th day of April 2009.

s/ David J. Waxse  
David J. Waxse  
U.S. Magistrate Judge

cc: All counsel and pro se parties

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<sup>5</sup>*Id.* at 1421.

<sup>6</sup>*Id.*

<sup>7</sup>Pursuant to the Court’s Order of March 2, 2009 (doc. 33), the Equal Opportunity Commission provided its file to the Court. The Court received that file from the Commission on March 16, 2009.