IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

NICHOLAS A. COX,	)	
	)	
Plaintiff,	)	
	)	**CIVIL ACTION**
v.	)	
	)	**No. 12-2678-KHV**
NURSE ANN (LNU), et al.,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM AND ORDER

Plaintiff pro se brings suit against Johnson County Sheriff Frank Denning, Correct Care Solutions, LLC, and various correctional officials and CCS employees. Under 42 U.S.C. § 1983, plaintiff alleges that defendants violated his Eighth Amendment rights. He also asserts state law negligence claims. On May 30, 2013, Magistrate Judge Gerald L. Rushfelt denied plaintiff's second motion to appoint counsel. See Memorandum And Order (Doc. #95). This matter comes before the Court on plaintiff's Objection To Denial Of Plaintiff's Motion For Appointment Of Counsel (Doc. #97) filed June 11, 2013.

The Court reviews a magistrate judge's refusal to appoint counsel for a pro se prisoner in a civil case for abuse of discretion. See Rucks v. Boergermann, 57 F.3d 978, 979 (10th Cir. 1995). The applicant bears the burden of convincing the Court that his claims have sufficient merit to warrant appointment of counsel. McCarthy v. Weinberg, 753 F.2d 836, 838 (10th Cir. 1985). Only when lack of counsel results in "fundamental unfairness" to the applicant will the Court overturn the magistrate judge decision denying appointment of counsel. Id. at 839 (appointment of counsel proper for prisoner with multiple sclerosis and diminished ability to communicate).

Here, plaintiff primarily argues that he lacks the medical knowledge necessary to present his

case. The issues in this case are not complex, however, and plaintiff is articulate and able to express the basis of his claims. Further, he has previously demonstrated the ability to prosecute his claims. Plaintiff has demonstrated no fundamental unfairness requiring the appointment of counsel. Therefore, the magistrate judge's order denying appointment of counsel was not an abuse of discretion.

IT IS THEREFORE ORDERED that plaintiff's Objection To Denial Of Plaintiff's Motion For Appointment Of Counsel (Doc. #97) filed June 11, 2013 be and hereby is **OVERRULED**.

Dated this 6th day of January, 2014 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge