

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

WILLIAM H. SNAVELY, III,

Petitioner,

vs.

CIVIL ACTION

No. 05-3468-SAC-KGS

KANSAS DEPARTMENT OF CORRECTIONS,
et al.,

Respondents.

MEMORANDUM AND ORDER

This matter comes before the court on plaintiff's motion to appoint counsel (Doc. 96).

There is no constitutional right to the appointment of counsel in a civil case. *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989). Rather, in the discretion of the court, counsel may be appointed to assist a party proceeding in forma pauperis. See 28 U.S.C. § 1915(e).

In determining whether to appoint counsel, the court should consider several factors, including the merits of the movant's claim, the nature of the factual issues involved, the movant's ability to present the claims, and the complexity of the legal issues involved. *Long v. Shillinger*, 927 F.2d 525, 527 (10th Cir. 1991).

Having considered the record, the court declines to appoint counsel at this stage in the proceedings.

First, plaintiff is not proceeding in forma pauperis in this matter, as contemplated by 28 U.S.C. § 1915(e)(2).

Next, plaintiff has made no showing that he has attempted to retain counsel. The court will direct the clerk of the court to supply plaintiff with a copy of the court's form motion for the appointment of counsel, which contains information on how to contact a lawyer referral service.

Finally, plaintiff's motion does not persuade the court that he is unable to proceed without counsel at this stage in the proceedings. To date, plaintiff has presented his position and developed arguments without assistance.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff's motion for the appointment of counsel (Doc 96) is denied without prejudice.

IT IS FURTHER ORDERED the clerk of the court shall transmit to the plaintiff the court's form motion for the appointment of counsel.

A copy of this order shall be transmitted to the parties.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 11th day of October, 2011.

S/ K. Gary Sebelius
K. GARY SEBELIUS
United States Magistrate Judge