

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MATTHEW T. GARDINER,

Plaintiff,

v.

Case No. 15-3151-DDC

BILL MCBRYDE, et al.,

Defendants.

**ORDER**

The incarcerated plaintiff in this 42 U.S.C. § 1983 case has filed a renewed motion for appointment of counsel (ECF No. 155). Although there is no constitutional right to appointed counsel in civil cases,<sup>1</sup> 28 U.S.C. § 1915(e)(1) grants district courts the discretion to appoint counsel to any person unable to afford counsel.<sup>2</sup> Plaintiff has demonstrated an inability to afford counsel,<sup>3</sup> and the court finds it prudent to appoint counsel to represent plaintiff as this case heads to trial. The motion is granted.

The court hereby appoints Stacey R. Gilman and Anthony J. Durone of the law firm of Berkowitz Oliver LLP in Kansas City, Missouri, to represent plaintiff. The Clerk is directed to enter Ms. Gilman's and Mr. Durone's appearances on behalf of plaintiff.

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<sup>1</sup> *Carper v. DeLand*, 54 F.3d 613, 616 (10th Cir. 1995); *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989).

<sup>2</sup> *See Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004).

<sup>3</sup> *See* ECF. No. 3-1.

Counsel are advised that they may be entitled to reimbursement of certain expenses, as discussed in D. Kan. Rule 83.5.3(f).

The clerk is directed to mail a copy of this order to plaintiff by regular mail.

Dated January 13, 2020, at Kansas City, Kansas.

s/ James P. O'Hara  
James P. O'Hara  
U.S. Magistrate Judge