IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

KENDRICK DEWAYNE MOORE, Plaintiff, v. ROD TAYLOR, et al., Defendants.	)	Case No. 17-cv-3070-CM-TJJ

ORDER

This matter is before the Court on three motions filed pro se by Plaintiff: Motion for Subpoena (ECF No. 33), Motion for Appointment of Counsel (ECF No. 34), and Motion for Leave to File Amended Complaint (ECF No. 35). Defendants Jake Cox and Brandon Gaede ("Thomas County Defendants") have filed responses in opposition to the Motion for Subpoena (ECF No. 38) and the Motion for Leave to File Amended Complaint (ECF No. 39). Upon consideration of the issues presented, the Court will deny Plaintiff's motions.

I. Motion for Subpoena

Plaintiff requests written reports or statements from various individuals, asserting he is entitled to those documents under Federal Rule of Civil Procedure 26(a) and (f). Plaintiff has previously raised a similar motion, which District Judge Sam A. Crow considered and denied. In his order denying Plaintiff's motion, Judge Crow repeated the following language from a yet earlier order: "[d]iscovery by Plaintiff shall not commence until Plaintiff has received and reviewed Defendants' answer or response to the Complaint and the [*Martinez*] report required herein. This action is exempted from the requirements imposed under Fed. R. Civ. P. 26(a) and

26(f)."[1] As the Thomas County Defendants point out, Judge Crow's order remains in place. Plaintiff's motion is denied.

II. Motion for Appointment of Counsel

Plaintiff has filed his third motion for appointment of counsel, citing his unfamiliarity with law, his indigency, the likelihood of conflicting testimony at trial, and his inability to obtain representation. Plaintiff has previously cited the first three of these grounds. In denying Plaintiff's earlier motions for appointment of counsel, the Court found it was not yet clear that Plaintiff has asserted a colorable claim against Defendants, the issues are not complex, and Plaintiff appears capable of adequately presenting facts and arguments.[2] The Court notes that Plaintiff has filed his own motion for summary judgment[3] and has filed a response to the Thomas County Defendant's motion for summary judgment.[4] Moreover, because it remains unclear whether Plaintiff has asserted a colorable claim against Defendants, the Court denies the motion for appointment of counsel without prejudice to refiling the motion at a later stage.

III. Motion for Leave to File Amended Complaint

Plaintiff has filed his second motion seeking leave to amend his complaint, asking to add Samantha Shepherd as a defendant and to change a date in the factual allegations in his original complaint. Plaintiff made the same requests in his first motion, which Judge Crow denied for failure to attach a proposed amended complaint as required by D. Kan. Rule 15.1(a). Plaintiff

[1] Order dated November 8, 2017 (ECF No. 27 at 2) (quoting Order dated August 30, 2017 (ECF No. 8).

[2] Order dated August 30, 2017 (ECF No. 8); Order dated October 31, 2017 (ECF No. 20).

[3] ECF No. 40.

[4] ECF No. 41.

has not attached a proposed amended complaint to the instant motion, and the Court therefore denies his motion for leave to amend his complaint.

IT IS THEREFORE ORDERED THAT Plaintiff's Motion for Subpoena (ECF No. 33), Motion for Appointment of Counsel (ECF No. 34), and Motion for Leave to File Amended Complaint (ECF No. 35) are DENIED.

IT IS SO ORDERED.

Dated this 28th day of February, 2018 at Kansas City, Kansas.

Teresa J. James
U. S. Magistrate Judge