

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

EUGENE KENNETH JONES,)	
)	
Plaintiff,)	
)	
v.)	No. 1:12CV70 LMB
)	
PAULA HUFFMAN-PHILLIPS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on review of the case file. Plaintiff has filed a motion for injunction and two motions for appointment of counsel. And five of the sixteen defendants have not yet been served with process.

Defendants Beggs, Clark, Cooper, Huffman-Phillips, Kempker, Milburn, Norman, Riddell, Thompson, Wallace, and Williams have filed an answer to the complaint. However, these defendants have not responded to plaintiff's motion for injunction. As a result, the Court will order these defendants to respond to the motion no later than September 4, 2012.

Plaintiff moves for appointment of counsel. There is no constitutional or statutory right to appointed counsel in civil cases. Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has

presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005. Plaintiff's claims are for denial of basic hygiene items and denial of access to the Courts. The Court does not believe that these issues are so factually or legally complex that appointment of counsel is warranted at this time. As a result, the Court will deny the motions without prejudice to refile at a later date.

The Clerk attempted to serve process on defendants Clements and Atwell via waiver letter to the Missouri Attorney General. Attorney for defendants notified the Court that she would not waive service as to these defendants because they are no longer employed by the Missouri Department of Corrections. As a result, the Court will direct counsel for defendants to provide the Court, *in camera*, with the last known addresses for defendants Clements and Atwell, so that the Court may issue summons as to these defendants.

Defendants Taylor, Murray, and Jones were added to the case in plaintiff's amended complaint. The Court has not yet ordered the Clerk to serve process as to

these defendants, but the Court finds that these defendants should be served with process on the complaint.

Accordingly,

IT IS HEREBY ORDERED that defendants Beggs, Clark, Cooper, Huffman-Phillips, Kempker, Milburn, Norman, Riddell, Thompson, Wallace, and Williams shall respond to plaintiff's motion for injunction no later than September 4, 2012.

IT IS FURTHER ORDERED that plaintiff's motions for appointment of counsel [Docs. 3, 13] are **DENIED** without prejudice.

IT IS FURTHER ORDERED that counsel for defendants shall provide the Court, *in camera*, with the last known addresses for defendants Clements and Atwell. Counsel's response to this Order should be entitled "In Camera Response to Order of August 20, 2012," and should be mailed directly to the chambers of the undersigned, at the following address: United States District Court, Eastern District of Missouri, Southeastern Division, 555 Independence, Cape Girardeau, Missouri, 63703.

IT IS FURTHER ORDERED that the Clerk shall serve process or cause process to be served as to defendants Ruth Taylor, Richard Murray, and Dr. Unknown Jones.¹

¹Taylor and Jones appear to be Corizon employees. Murray appears to be a Missouri Department of Corrections employee.

Dated this 21st day of August, 2012.

Lewis M. Blanton

LEWIS M. BLANTON
UNITED STATES MAGISTRATE JUDGE