

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES SMALLEY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:10CV319 RWS
	)	
MICHAEL GAMACHE, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before me on a letter plaintiff sent to the Clerk of Court and a motion for appointment of counsel. Although plaintiff has failed to file a notice of change of address in accordance with the local rules, he has apparently been transferred to Western Missouri Correctional Center, 609 East Pence Road, Cameron, Missouri 64429, so I will Order the Clerk of the Court to update the docket sheet accordingly. It is unclear what plaintiff is asking the Clerk of the Court to send him - this case is three years old and has 113 docket entries. Because plaintiff's trial date is fast approaching, **I will order the Clerk of the Court to send copies of the following documents only to plaintiff as a one-time courtesy:** docket sheet; complaint [#1]; Order denying summary judgment [#108]; Order relating to trial [#109]; and, plaintiff's letter [#112].

As for plaintiff's request for a lawyer, I have considered it under the appropriate standards and find that no appointment of counsel is necessary.<sup>1</sup> Plaintiff states he needs a lawyer to hire

---

<sup>1</sup>There is no constitutional or statutory right to appointed counsel in a civil case. 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 prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further

an expert witness and conduct discovery, but **as plaintiff is well aware, all discovery in this matter is closed so no expert witness could be presented and no additional discovery could be conducted by appointed counsel.** This case is not factually complex. Plaintiff is not entitled to a lawyer, and I do not find that appointment of counsel is warranted. This case is set to go to trial in a little over a month. If plaintiff is seeking an extension of the trial date due to his transfer or for any other reason, then he must file a timely motion in accordance with the local rules for the Court's consideration.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk of the Court shall update the docket sheet to reflect plaintiff's current address of **Western Missouri Correctional Center, 609 East Pence Road, Cameron, Missouri 64429** and shall provide copies of the following documents to plaintiff at his new address: docket sheet; complaint [#1]; Order denying summary judgment [#108]; Order relating to trial [#109]; and, plaintiff's letter [#112].

**IT IS FURTHER ORDERED** that the motion for appointment of counsel [#113] is denied.



---

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 22nd day of May, 2013.

---

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 Battle v. Armontrout, 902 F.2d 701, 702 (8th Cir. 1990); Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005.