

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

SOLOMON GENE CODY,)
)
 Plaintiff,)
)
 v.) No. 4:12CV412 AGF
)
 DEPARTMENT OF CORRECTIONS,)
 et al.,)
)
 Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on Defendants Williams, Henderson, and Fipps's motion to dismiss for failure to state a claim and on Plaintiff's motion for appointment of counsel. Both motions will be denied.

In his complaint, Plaintiff alleges that Defendants, who are medically trained and were responsible for making decisions about Plaintiff's health, allowed him to be placed in solitary confinement while he was barely conscious and vomiting. Construed liberally, these allegations are sufficient to plead a claim for deliberate indifference to Plaintiff's serious medical needs. As a result, Defendants' motion to dismiss is denied.

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

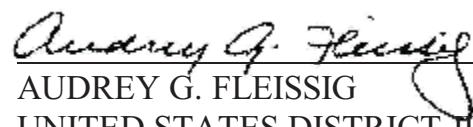
there is a need to further investigate and present the facts related to the Plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005. After considering these factors, the Court finds that the facts and legal issues involved are not so complicated that the appointment of counsel is warranted at this time, and therefore, Plaintiff's motion for appointment of counsel is denied.

Accordingly,

IT IS HEREBY ORDERED that Defendants' motion to dismiss [Doc. 11] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's motion for appointment of counsel [Doc. 4] is **DENIED** without prejudice.

Dated this 10th day of September, 2012.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE