

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

R&D FILM 1, LLC,

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Plaintiff,

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vs.

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Case No. 4:12CV1741 CDP

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DOES 1–33,

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Defendants.

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MEMORANDUM AND ORDER

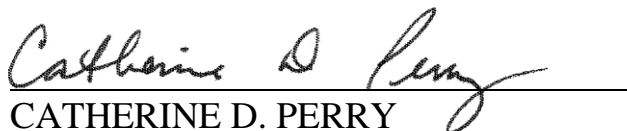
This matter is before me on Defendant George W. Thompson’s motion for appointment of counsel and motion to proceed *in forma pauperis*. For the following reasons, both motions shall be denied.

The Court has discretion under 28 U.S.C. Section 1915 to authorize the defense of any suit without prepayment of fees. 28 U.S.C. § 1915(a)(1). To show entitlement to proceed *in forma pauperis*, a person must submit an affidavit showing that the person is unable to pay such fees; the affidavit must also “state the nature of the . . . defense.” *Id.* Thompson’s affidavit fails to state the nature of his defense. At this point, it is not clear what court fees Thompson believes he needs to pay. Additionally, Thompson has not shown himself to be so indigent as to be unable to pay the Court’s fees. Therefore, I will deny Thompson’s motion to proceed *in forma pauperis*.

There is no constitutional or statutory right to appointed counsel in a civil case. *Rayes v. Johnson*, 969 F.2d 700, 702 (8th Cir. 1992). The Court may appoint counsel upon a showing that a person needs and is unable to afford counsel. *Id.* See also 28 U.S.C. § 1915e (1996). In evaluating a person's need, several factors are considered, including the likelihood that the person and the court will benefit from the assistance of counsel, the factual complexity of the case, the person's ability to investigate the facts and present a defense, the existence of conflicting testimony, and the complexity of the legal issues. See *In re Lane*, 801 F.2d 1040, 1043–44 (8th Cir. 1986).

Defendant has not provided any allegations in support of his prayer for relief, and while he may benefit from the appointment of counsel, I do not believe that the facts and legal issues involved are so complicated that the appointment of counsel is warranted at this time. Moreover, as Thompson is the defendant in this action, he is capable of investigating many of the facts surrounding his conduct. After considering the relevant factors, I will deny Thompson's motion for appointment of counsel.

IT IS HEREBY ORDERED that Thompson's motions for leave to proceed *in forma pauperis* [#27] and to appoint counsel [#29] are denied without prejudice.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 12th day of June, 2013.