

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

DAVID A. SEVERANCE,)	
)	
Plaintiff,)	
)	
v.)	No. 4:15-CV-74 CAS
)	
UNKNOWN WAFFEOFFE, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This prisoner civil rights matter under 42 U.S.C. § 1983 is before the Court on review own motion prior to the issuance of process. Having carefully reviewed the complaint, the Court on its own motion concludes that the appointment of counsel is appropriate in this case.

The appointment of counsel for an indigent pro se plaintiff lies within the discretion of the Court, as there is no constitutional or statutory right to appointed counsel in civil cases. Phillips v. Jasper County Jail, 437 F.3d 791, 794 (8th Cir. 2006) (citation omitted); see 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent any person unable to afford counsel.”)

Once the plaintiff alleges a prima facie claim, the Court must determine the plaintiff’s need for counsel to litigate his claim effectively. In re Lane, 801 F.2d 1040, 1043 (8th Cir. 1986). The standard for appointment of counsel in a civil case is whether both the plaintiff and the Court would benefit from the assistance of counsel. Edgington v. Missouri Dept. of Corrections, 52 F.3d 777, 780 (8th Cir. 1995), abrogated on other grounds by Doe v. Cassel, 403 F.3d 986, 989 (8th Cir. 2005). (citations omitted). This determination involves the consideration of several relevant criteria which include “the factual complexity of the issues, the ability of the indigent person to investigate the facts, the existence of conflicting testimony, the ability of the indigent person to present the

claims, and the complexity of the legal arguments.” Phillips, 437 F.3d at 794 (citing Edgington, 52 F.3d at 780).

The Court concludes that plaintiff and the Court would benefit from the assistance of counsel in this case. The legal and factual issues presented by the complaint appear to be complex, and expert testimony may be required to support some of plaintiff’s claims. Plaintiff does not appear able to appropriately organize and articulate his claims, and because of his incarceration will have difficulty investigating the facts and prosecuting this case.

Accordingly,

IT IS HEREBY ORDERED that Patrick J. Kenny, of Armstrong Teasdale, 7700 Forsyth Boulevard, Suite 1800, St. Louis, Missouri 63105, telephone number (314) 621-5070, is hereby appointed as counsel for the plaintiff. Counsel shall have thirty (30) days from the date of receipt of the Court file in which to file an amended complaint if deemed appropriate.

Appointed counsel is advised that all applications for disbursement of funds from the Eastern District’s Attorney Admission Fee Non-Appropriated Fund are governed by Local Rules 12.03 and 12.06, the Administrative Order of May 5, 2010 concerning the Attorney Admission Fee Non-Appropriated Fund, and the Regulations Governing the Disbursement of Funds from the Non-Appropriated Fund for Attorney’s Fees and Out-of-Pocket Expenses Incurred by Attorneys Appointed to Represent Indigent Parties in Civil Proceedings Pursuant to 28 U.S.C. § 1915(e), dated May 5, 2010. The Order and Regulations, as well as form requests for compensation of services and reimbursement of expenses, may be obtained from the Clerk of the Court or printed from the Court’s Internet website, www.moed.uscourts.gov.

IT IS FURTHER ORDERED that the Clerk of the Court shall provide appointed counsel with a copy of the complete Court file.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 31st day of March, 2015.