

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KOREY MAURICE WESS,)
)
 Plaintiff,)
)
 vs.)
)
 SCOT DUNN,)
 MARYLAND HEIGHTS POLICE)
 DEPARTMENT, ANDREW)
 HEIMBERGER,)
 Defendants.)

Case No. 4:21CV01281HEA

OPINION, MEMORANDUM AND ORDER

This matter is before the court on Petitioner’s Motion for Appointment of Counsel, [Doc. No. 66]. The Court notes that there is no constitutional or statutory right to the appointment of counsel in a civil case. *Ward v. Smith* 721 F.3d 940, 942(8th Cir. 2013). A district court may appoint counsel in a civil case if the court is “convinced that an indigent plaintiff has stated a non-frivolous claim...and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.” *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the complexity of the case, the ability of the pro se litigant to investigate the facts, the existence of conflicting testimony, and the ability of the pro se litigant to present his or her

claim. *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006). Plaintiff seeks relief in an action filed pursuant to 28 U.S.C §2255.

The Complaint sets forth the facts upon which this claim is based, and Petitioner has set forth the grounds upon which he claims relief. This case does not appear to be so complex that Petitioner is unable to pursue this action without the assistance of counsel.

After reviewing these factors, the Court finds that the appointment of counsel is not warranted. Plaintiff has demonstrated, at this point, that he can adequately present his claims to the Court. Additionally, neither the factual nor the legal issues in this case appear to be complex. The Court will entertain future motions for appointment of counsel as the case progresses, if appropriate.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Appointment of Counsel [Doc. No. 66] is **denied**.

Dated this 5th day of December, 2022.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE