

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAMON E. FITZGERALD,)

Plaintiff,)

V.)

NEBRASKA DEPARTMENT OF)
CORRECTIONAL SERVICES,)
SCOTT FRAKES, FRANK)
HOPKINS, DIANE SABATKA-RINE,)
RICHARD CRUICKSHANK, APRIL)
JUNE-BULLINGS, JILL KUBICEK,)
ROBERT MADSEN, JASON HURT,)
BRANDON NOORDHOEK,)
MATTHEW TRACY, sued in their)
official and individual capacities, and)
WILLIAM HENDRICKS, sued in his)
individual capacity,)

Defendants.)

8:16CV101

MEMORANDUM AND ORDER

Plaintiff has filed a Motion (Filing No. [7](#)) seeking the appointment of counsel. The court cannot routinely appoint counsel in civil cases. In [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” [Id.](#) Having considered these factors, the request for the appointment of counsel will be denied without prejudice to reassertion.

IT IS THEREFORE ORDERED that: Plaintiff’s Motion to Appoint Counsel

(Filing No. [7](#)) is denied without prejudice to reassertion.

DATED this 26th day of May, 2016.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge