

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JAMES COTTON,

Plaintiff,

vs.

DOUGLAS COUNTY, NEBRASKA,  
and JACQUELINE ESCH, M.D.,  
in her official capacity as a medical  
doctor of Douglas County  
Corrections,

Defendants.

8:16CV153

ORDER

This matter is before the court on the Motion to Withdraw as Counsel for Plaintiff Cotton (Filing No. 25) and the plaintiff's October 14, 2016, correspondence (Filing No. 24-1). Travis J. Penn seeks leave to withdraw as counsel for the plaintiff due to a breakdown in communication. **See** Filing No. 25. The plaintiff's correspondence indicates the plaintiff's agreement and the plaintiff states he no longer wants Mr. Penn to represent him in this matter. **See** Filing No. 24-1. Accordingly, the court will grant Mr. Penn leave to withdraw.

The plaintiff also indicates he is looking for new counsel, but he is having difficulty due to his incarceration and lack of funds. **See** Filing No. 24-1. The plaintiff asks if the court may appoint counsel. *Id.* "Indigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel." **Davis v. Scott**, 94 F.3d 444, 447 (8th Cir. 1996) (quotation and citation omitted). The plaintiff was previously granted in forma pauperis status. **See** Filing No. 4. Nevertheless, the plaintiff fails to provide justification for the appointment of counsel. On October 5, 2016, the court granted one defendant's motion to dismiss, but allowed the plaintiff an opportunity to amend his complaint. **See** Filing No. 23. The plaintiff provided details about his alleged injuries, claims, and intentions for this lawsuit in his correspondence. **See** Filing No. 24-1. The court finds appointment of counsel is not necessary at this time to enable the plaintiff to pursue his

interests in this lawsuit. The plaintiff will proceed pro se unless he retains legal counsel or counsel is appointed by the court at a later time. Upon consideration,

**IT IS ORDERED:**

1. The Motion to Withdraw as Counsel for Plaintiff Cotton (Filing No. 25) is granted. The Clerk of Court shall terminate Travis J. Penn as counsel for the plaintiff and stop all notification to him. The plaintiff is considered proceeding pro se and counsel for any defendant may communicate with him directly.

2. The plaintiff's request for appointment of counsel (Filing No. 24-1) is denied.

3. The plaintiff shall have until **November 23, 2016**, to file an amended complaint in accordance with the court's October 5, 2016, Order.

4. The Clerk of Court shall provide a copy of the court's October 5, 2016, Order, with this Order to the plaintiff at his last known address.

Dated this 24th day of October, 2016.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge