

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CHARLES A. FILHIOL, )  
)  
Plaintiff, )

8:16CV460

V. )

SCOTT FRAKES, Ndocs Director, )  
ANY UNKNOWN NDOCS )  
EMPLOYEES INVOLVED IN MY )  
CLASSIFICATION PROCESS AT )  
NDOCS, ANY AND ALL )  
UNKNOWN MEDICAL STAFF )  
AWARE OF MY CURRENT )  
MEDICAL CONDITIONS WHO )  
WORK FOR OR ARE )  
CONTRACTED THROUGH THE )  
NDOCS, and ANY AND ALL )  
UNKNOWN HALL COUNTY )  
NEBRASKA CORRECTIONS )  
STAFF AND MEDICAL STAFF )  
AND ADMINISTRATORS )  
INVOLVED IN THIS CLAIM, )  
)  
Defendants. )

**MEMORANDUM AND ORDER**

This matter is before the court on Plaintiff’s Motion to Appoint Counsel and Waive Filing Fee. (Filing No. [7](#).) The motion will be denied.

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.

Plaintiff was previously granted leave to proceed in forma pauperis. However, prisoner plaintiffs are still required to pay the court's filing fee by making monthly payments to the court. [28 U.S.C. § 1915\(b\)](#). Based on Plaintiff's average monthly account balance, Plaintiff was ordered to pay \$14.12 by November 11, 2016. (Filing No. [6](#).) Plaintiff has not provided the court with any reason to reconsider this ruling.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Appoint Counsel and Waive Filing Fee (Filing No. [7](#)) is denied. Plaintiff's request for counsel is denied without prejudice to reassertion at a later date. Plaintiff must pay the initial partial filing fee in the amount of \$14.12 by November 11, 2016, unless the court extends the time in which he has to pay in response to a written motion.

DATED this 18<sup>th</sup> day of October, 2016.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge