

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANTHONY SPENCER GREEN SR., )

Plaintiff, )

V. )

CREIGHTON/CHI HEALTH, )  
REBECCA STORMONT, MD, )  
VIRGINIA J. SMITH, APRN, and )  
ANNIE E. KNIERIM, Orthopedic )  
Surgeon, )

Defendants. )

8:16CV480

**MEMORANDUM AND ORDER**

Plaintiff, a non-prisoner, filed a Motion for Leave to Proceed in Forma Pauperis. (Filing No. [2](#).) Upon review of Plaintiff's Motion, the court finds that Plaintiff is financially eligible to proceed in forma pauperis.

Plaintiff also filed a Motion (Filing No. [3](#)) 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 leave to proceed in forma pauperis is provisionally granted, and the Complaint shall be filed without payment of fees.

Plaintiff's Motion for Appointment of Counsel (Filing No. [3](#)) is denied without prejudice to reassertion. Plaintiff is advised that the next step in his case will be for the court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

DATED this 14<sup>th</sup> day of November, 2016.

BY THE COURT:

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