

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

FILED

SEP 13 2011

WILLIAM J. GIERIE Clerk

By Deputy Clerk

MICHAEL D. LOWERY, Plaintiff, v. DREW EDMONDSON, et al., Defendants.

No. CIV 09-286-RAW-SPS

OPINION AND ORDER DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed a second motion requesting the court to appoint counsel [Docket No. 125]. He still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. McCarthy v. Weinberg, 753 F.2d 836, 838 (10th Cir. 1985) (citing United States v. Masters, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court again has carefully reviewed the merits of plaintiff's remaining claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. See McCarthy, 753 F.2d at 838 (citing Maclin v. Freake, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering plaintiff's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds appointment of counsel still is not warranted. See Williams v. Meese, 926 F.2d 994, 996 (10th Cir. 1991); see also Rucks v. Boergermann, 57 F.3d 978, 979 (10th Cir. 1995).

ACCORDINGLY, plaintiff's motion [Docket #125] is DENIED with leave to re-urge the motion, if appropriate, after a decision on the dispositive motions has been entered.

IT IS SO ORDERED this 13th day of September 2011.

Ronald A. White RONALD A. WHITE UNITED STATES DISTRICT JUDGE