

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

FILED

OCT 6 2009

WILLIAM J. SCHRIE  
Clerk, U.S. District Court

By \_\_\_\_\_  
Deputy Clerk

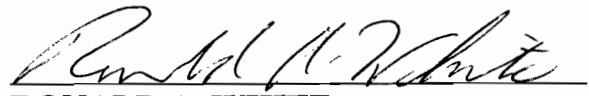
EMBRY JAY LOFTIS, )  
)  
Plaintiff, )  
)  
v. )  
)  
KEN GRACE, et al., )  
)  
Defendants. )

No. CIV 09-379-RAW-SPS

**OPINION AND ORDER**  
**DENYING MOTION FOR APPOINTMENT OF COUNSEL**

Plaintiff has filed a motion requesting the court to appoint counsel [Docket #2]. He 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 has carefully reviewed the merits of plaintiff's claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *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 that appointment of counsel 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 #2] is DENIED.

IT IS SO ORDERED this 6<sup>th</sup> day of October 2009.

  
RONALD A. WHITE  
UNITED STATES DISTRICT JUDGE