

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

ANGELO VERNON McCLEARY,)
)
 Plaintiff,)
)
 v.)
)
 OKLAHOMA DEPARTMENT)
 OF CORRECTIONS, DAVIS)
 CORRECTIONAL FACILITY, and)
 CORE CIVIC, INC.,)
)
 Defendants.)

No. CIV 20-032-RAW-SPS

OPINION AND ORDER
DENYING MOTION FOR APPOINTMENT OF COUNSEL,
INVESTIGATORS, AND STATE AND FEDERAL AUDITORS

Plaintiff has filed a motion requesting the Court to appoint counsel, investigators, and state and federal auditors (Dkt. 6). He also wants to file state and federal criminal charges against “organizations,” presumably the defendants. *Id.*

Plaintiff 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).

To the extent Plaintiff is requesting investigators and state and federal auditors, there is no

right to such appointment. Furthermore, there is no constitutional right to have someone criminally prosecuted. *Oliver v. Collins*, 914 F.2d 56, 60 (5th Cir. 1990). Plaintiff has no legal basis to pursue criminal charges through this civil action, because “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973). *See also Florance v. Buchmeyer*, 500 F. Supp. 2d 618, 626 (N.D. Tex. 2007) (“[A] private citizen cannot enforce criminal statutes in a civil action.”).

ACCORDINGLY, Plaintiff’s motion for appointment of counsel (Dkt. 6) is DENIED.

IT IS SO ORDERED this 5th day of March 2020.

A handwritten signature in cursive script, reading "Ronald A. White", written in black ink over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma