UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH NORTHERN DIVISION

AARON R. GARCIA,

Plaintiff,

v.

JOSEPH WILSON, et al.,

Defendants.

MEMORANDUM DECISION AND ORDER DENYING WITHOUT

PREJUDICE MOTION FOR APPOINTMENT OF COUNSEL (DOC. NO. 7)

Case No. 1:23-cv-00131

Magistrate Judge Daphne A. Oberg

Plaintiff Aaron R. Garcia filed this action without an attorney and *in forma pauperis* (without paying the filing fee).¹ Mr. Garcia now moves for appointment of counsel.² Because Mr. Garcia does not provide a reason for his request, the motion is denied without prejudice.

While defendants in criminal cases have a constitutional right to representation by an attorney,³ "[t]here is no constitutional right to appointed counsel in a civil case."⁴ Appointment of counsel in civil cases is left to the court's discretion.⁵ Indigent parties in civil cases may apply for the appointment of counsel under 28 U.S.C. § 1915(e)(1), which allows a court to "request an attorney to represent any person unable to afford counsel." The applicant has the

¹ (See Order Granting Mot. to Proceed in Forma Pauperis, Doc. No. 5; Compl., Doc. No. 6.)

² (Mot. for Appointment of Counsel, Doc. No. 7.)

³ See U.S. Const. amend. VI; Fed. R. Crim. P. 44.

⁴ Durre v. Dempsey, 869 F.2d 543, 547 (10th Cir. 1989).

⁵ Shabazz v. Askins, 14 F.3d 533, 535 (10th Cir. 1994).

burden to convince the court his/her/their claim has enough merit to warrant appointment of counsel.⁶ When deciding whether to appoint counsel, the court considers a variety of factors, including "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present [the] claims, and the complexity of the legal issues raised by the claims."⁷

Mr. Garcia asks the court to appoint counsel but states no reason or basis for the request, other than that he has been granted leave to proceed in forma pauperis. As outlined above, this is insufficient to warrant appointment of counsel in a civil case. Accordingly, the court DENIES Mr. Garcia's motion for appointment of counsel⁸ without prejudice.⁹

DATED this 19th day of December, 2023.

BY THE COURT:

Dapline A. Olierg

United States Magistrate Judge

⁶ McCarthy v. Weinberg, 753 F.2d 836, 838 (10th Cir. 1985).

⁷ Rucks v. Boergermann, 57 F.3d 978, 979 (10th Cir. 1995) (internal quotation marks omitted).

⁸ (Doc. No. 7.)

⁹ Because the motion is denied without prejudice, Mr. Garcia may file a new motion explaining why, under the factors outlined above, his case warrants the appointment of counsel.