IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

JOSE SOTO, Plaintiff, v. DEPUTY WARDEN IRONS et al., Defendants.	)	**ORDER DENYING MOTIONS, & MEMORANDUM DECISION** Case No. 2:12-CV-668 TS District Judge Ted Stewart

Plaintiff, Jose Soto, filed a *pro se* prisoner civil rights complaint.[1] Plaintiff now moves for appointed counsel.

Plaintiff has no constitutional right to counsel.[2] However, the Court may in its discretion appoint counsel for indigent inmates.[3] "The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel."[4]

When deciding whether to appoint counsel, the district court should consider 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 his claims, and the complexity of the legal issues raised by the claims.'"[5]

[1] *See* 42 U.S.C.S. § 1983 (2013).

[2] *See Carper v. Deland*, 54 F.3d 613, 616 (10th Cir. 1995); *Bee v. Utah State Prison*, 823 F.2d 397, 399 (10th Cir. 1987).

[3] *See* 28 U.S.C.S. § 1915(e)(1) (2013); *Carper*, 54 F.3d at 617; *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

[4] *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

[5] *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams*, 926 F.2d at 996); *accord McCarthy*, 753 F.2d at 838-39.

Considering the above factors, the Court concludes here that, at this time, Plaintiff's claims may not be colorable, the issues in this case are not complex, and Plaintiff is not at this time too incapacitated or unable to adequately function in pursuing this matter. Thus, the Court denies for now Plaintiff's motions for appointed counsel.

IT IS HEREBY ORDERED that Plaintiff's motions for appointed counsel are DENIED[6]; however, if, after the case develops further, it appears that counsel may be needed or of specific help, the Court will ask an attorney to appear pro bono on Plaintiff's behalf. No further motions of this nature are necessary.

IT IS FURTHER ORDERED that, within thirty days, Plaintiff shall respond to Defendants' summary-judgment motion.[7]

DATED this 8th day of April, 2013.

BY THE COURT:

CHIEF JUDGE TED STEWART
United States District Court

[6](*See* Docket Entry #s 9 & 17.)

[7](*See* Docket Entry # 20.)