

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

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|-------------------------------|---|-----------------------------|
| MARSHA GRAY, |) | |
| |) | |
| Plaintiff,¹ |) | |
| |) | |
| v. |) | Case No. 00-3133-JTM |
| |) | Case No. 00-3148-JTM |
| L. E. BRUCE, et al., |) | |
| |) | |
| Defendants, |) | |
| _____ |) | |

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's motion for the appointment of counsel (Doc. 85). In evaluating whether to appoint counsel to represent plaintiff, the court considers (1) plaintiff's ability to afford counsel, (2) plaintiff's diligence in searching for counsel, (3) the merits of plaintiff's case, and (4) plaintiff's capacity to prepare and present the case without the aid of counsel. See Castner v. Colorado Springs Cablevision, 979 F.2d 1417, 1420-21 (10th Cir. 1992). Thoughtful and prudent care in appointing representation is necessary so that willing counsel may be located; however, the indiscriminate appointment of volunteer counsel to undeserving claims wastes a precious resource and may discourage attorneys from volunteering their time. Id. at 1421.

¹

Plaintiff Kevin Gray dismissed his claims against defendants with prejudice. (Doc. 81). Accordingly, his name has been removed from the case caption.

After careful consideration, the court declines to appoint counsel to represent plaintiff. Without prejudging in any way the merits of plaintiff's complaint, the court notes that plaintiff's claims have been narrowed to whether Ms. Gray was subjected to an unreasonable search under the Fourth Amendment and whether defendant Nelson's method of collecting and testing swab samples from plaintiff was reasonable. Plaintiff's pleadings and communications demonstrate the capacity to prepare and present her claim without the aid of counsel. Moreover, the remaining issues in this case are not unduly complex. Under the circumstances, the court declines to appoint counsel.

IT IS THEREFORE ORDERED that plaintiff's motion for the appointment of counsel (**Doc. 85**) is **DENIED**.

IT IS SO ORDERED.

Dated at Wichita, Kansas this 20th day of April 2006.

S/ Karen M. Humphreys

KAREN M. HUMPHREYS
United States Magistrate Judge