

DJW/bh

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

**EMEL SMITH,**

**Plaintiff,**

**CIVIL ACTION**

**v.**

**No. 06-3146-KHV-DJW**

**ARAMARK CORRECTIONAL  
SERVICES, LLC,**

**Defendant.**

**ORDER**

Pending before the Court is Plaintiff's Motion to Appoint Counsel (doc. 115). Plaintiff, a state prisoner, requests the Court appoint him counsel in this action, which arises under 42 U.S.C. § 1983.

This Court has denied previous motions filed by Plaintiff for the appointment of counsel. As the Court pointed out in those prior orders, prisoners alleging civil rights violations have no constitutional right to the assistance of counsel in the prosecution of such an action,<sup>1</sup> and the decision whether to appoint counsel in a civil matter lies in the discretion of the district court.<sup>2</sup> In determining whether to appoint counsel the court should consider "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."<sup>3</sup>

---

<sup>1</sup>*Bethea v. Crouse*, 417 F.2d 504, 505 (10th Cir. 1969).

<sup>2</sup>*Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

<sup>3</sup>*Long v. Shillinger*, 927 F.2d 525, 526-27 (10th Cir. 1991).

The Court has reviewed the Court file, including the pro se pleadings filed by Plaintiff throughout the course of this lawsuit. The Court finds that Plaintiff is articulate and able to express the basis of his claims . The Court also finds that the issues presented in this matter are not unusually complicated. The Court is therefore of the opinion that no compelling basis exists upon which to appoint counsel. Accordingly, the Court denies the motion for appointment of counsel

**IT IS THEREFORE ORDERED** that Plaintiff's Motion to Appoint Counsel (doc. 115) is denied.

**IT IS SO ORDERED.**

Dated in Kansas City, Kansas, on this 26th day of August, 2008.

s/ David J. Waxse  
David J. Waxse  
U.S. Magistrate Judge

cc: All counsel and pro se parties