

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

CRYSTAL NICOLE KURI,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 15-9293-JAR-GEB
	)	
STEVE KAMAU, et al.,	)	
	)	
Defendants.	)	
_____	)	

**MEMORANDUM AND ORDER**

This case is before the Court on Plaintiff Crystal Kuri’s Appeal of Magistrate Judge Decision to District Judge (Doc. 6), challenging Magistrate Judge Birzer’s Order denying appointment of counsel.<sup>1</sup> Judge Birzer explained in her decision that there is no constitutional right to appointed counsel in civil cases and, after considering the applicable standards, determined that appointment of counsel was not appropriate in this case at this time.

Fed. R. Civ. P. 72 allows a party to provide specific, written objections to a magistrate judge’s order. With respect to a magistrate judge’s order relating to nondispositive pretrial matters, the district court does not conduct a *de novo* review; rather, the court applies a more deferential standard by which the moving party must show that the magistrate judge’s order is “clearly erroneous or contrary to the law.”<sup>2</sup> “The clearly erroneous standard applies to factual findings, and ‘requires that the reviewing court affirm unless it on the entire evidence is left with

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<sup>1</sup>Doc. 5.

<sup>2</sup>*First Union Mortgage Corp. v. Smith*, 229 F.3d 992, 995 (10th Cir. 2000) (quoting *Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1461-62 (10th Cir. 1988); 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a)).

the definite and firm conviction that a mistake has been committed.”<sup>3</sup>

Judge Birzer properly considered the relevant factors in determining whether counsel should be appointed in a civil case and found that the Court was not able to fully evaluate the merits of Plaintiff’s claims based on the information presented in the Complaint. She postponed a decision to appoint counsel until the Court could glean more information about Plaintiff’s claims and her ability to present those claims to the Court. The Court finds that Judge Birzer’s Order denying appointment of counsel in this matter is not clearly erroneous nor contrary to the law.

**IT IS THEREFORE ORDERED BY THE COURT** that Plaintiff’s Appeal of Magistrate Judge Decision to District Judge (Doc. 6) is **denied**.

Dated: November 23, 2015

S/ Julie A. Robinson  
JULIE A. ROBINSON  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup>*McCormick v. City of Lawrence*, No. 02-2135-JWL, 2005 WL 1606595, at \*2 (D. Kan. July 8, 2005) (citing 12 Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, FEDERAL PRACTICE & PROCEDURE § 3069, at 355 (2d ed. 1997) and quoting *Ocelot Oil*, 847 F.2d at 1464) (internal quotation marks omitted).