

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

BRUCE CLEMENT PENNINGTON, JR.,

Plaintiff,

v.

CASE NO. 17-3116-SAC

**SUMNER COUNTY SHERIFF'S DEPARTMENT,
et al.,**

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights complaint filed under 42 U.S.C. § 1983. The Court has conducted a preliminary review of the complaint and enters the following order.

First, although the complaint identifies Vanessa Kay Oller as a plaintiff, Ms. Oller did not sign the complaint and has not submitted a motion to proceed in forma pauperis. The Court therefore will direct her to submit a signed complaint and a motion to proceed in forma pauperis.

Next, plaintiff Pennington has submitted a motion to appoint counsel (Doc. #4). A party to a civil action has no constitutional right to the appointment of counsel. *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989). The Court has discretion to appoint counsel for a party proceeding in forma pauperis. See 28 U.S.C. § 1915(e)(1). The Court may consider several factors, including the merits of the party's claims, the complexity of the issues, and the party's ability to investigate the facts and present the claims. *Rucks v. Boergermann*, 393 F.3d 111, 115 (10th Cir. 2004). The Court has examined the record and declines to appoint counsel at this time. It appears that plaintiff

is able to explain the facts and claims in this matter, and since he filed this action, plaintiff has been released from incarceration. Upon the development of the record in this matter, the Court will reconsider whether the appointment of counsel is warranted.

IT IS, THEREFORE, BY THE COURT ORDERED that Vanessa Kay Oller must submit a signed complaint and submit the \$400.00 filing fee or a motion to proceed in forma pauperis to the Clerk of the Court on or before November 13, 2017, in order to proceed as a plaintiff in this matter.

IT IS FURTHER ORDERED the motion to appoint counsel (Doc. #4) is denied.

IT IS SO ORDERED.

DATED: This 13th day of October, 2017, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge