

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DONNELL BARROW,

Plaintiff,

vs.

Case No. 19-3220-SAC

DR. JASON CLARK and
DR. KRISTEN AULEPP.

Defendants.

O R D E R

This case is before the court upon plaintiff's motion to appoint counsel (Doc. No. 5), motion for service of summons (Doc. No. 6), and motion to stay case (Doc. No. 10).

The court shall deny plaintiff's motion to appoint counsel. In deciding whether to appoint counsel, the district court should consider "the merits of the prisoner's claims, the nature and complexity of the factual and legal issues, and the prisoner's ability to investigate the facts and present his claims." Hill v. SmithKline Beecham Corp., 393 F.3d 1111, 1115 (10th Cir. 2004). "It is not enough 'that having counsel appointed would have assisted [the prisoner] in presenting his strongest possible case, [as] the same could be said in any case.'" Steffey v. Orman, 461 F.3d 1218, 1223 (10th Cir. 2006)(quoting Rucks v. Boergermann, 57

F.3d 978, 979 (10th Cir. 1995)). Here, the court understands that plaintiff faces some obstacles in presenting the facts and law concerning his case. But, this case is in the very early stages and the court is not convinced that appointment of counsel is warranted. Considering all of the circumstances, including that the merits of the case are unclear at best, the court shall deny plaintiff's motion for appointment of counsel without prejudice to plaintiff renewing his request at a later point in this litigation.

The court shall also deny plaintiff's motion for service of summons without prejudice. The court may reconsider issuance of summons after plaintiff has responded to the court's show cause order.

Finally, plaintiff has asked the court to stay this case "until the pandemic is over," because plaintiff is on lock down and has no access to a law library. Upon review, the court shall not stay this case but will further extend plaintiff's time to respond to the show cause order to June 15, 2020.

In conclusion, the motions to appoint counsel and to serve summons are denied without prejudice. The motion to stay is denied, but the time for plaintiff to respond to the court's show cause order is extended to June 15, 2020.

IT IS SO ORDERED.

Dated this 27th day of April, 2020, at Topeka, Kansas.

s/Sam A. Crow
Sam A. Crow, U.S. District Senior Judge