

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

FRANCIS YOMI,

Plaintiff,

v.

XAVIER BECERRA, in his capacity as  
Secretary of Health and Human Services,

Defendant.

Case No. 21-2224-DDC-ADM

**ORDER**

This matter comes before the court on pro se plaintiff Francis Yomi's ("Yomi") second Motion for Appointment of Attorney. (ECF 154.) Yomi contends that appointment of counsel is warranted at this time because he has been unsuccessful on his non-dispositive motions, he has medical conditions that inhibit his ability to present his claims, and his claims are meritorious. For the reasons discussed below, the court denies the motion.

First, the fact that Yomi has been unsuccessful on motions to date in no way indicates he is unable to present his claims. The court's May 17, 2021 order denying Yomi's first request for appointment of counsel explained, "[t]he papers prepared and filed by plaintiff, which are notably detailed and thorough, indicate he is capable of presenting this case without the aid of counsel, particularly given the liberal standards governing pro se litigants." (ECF 5, at 4.) Yomi's motion practice since that time, as well as his recent submissions to the undersigned judge showing Yomi's discovery responses, only strengthen the court's conviction that Yomi is able to adequately present his claims. Indeed, in reviewing Yomi's objections to defendant Xavier Becerra's interrogatories and requests for production of documents in preparation for a discovery conference, the court was impressed that the objections were thoughtful, practical, and usually well-reasoned. Although

Yomi expresses concern that he does “not know the applicable law” applying to his claims, the court remains convinced “that the district judge assigned to this case will have little trouble discerning the applicable law” and that this case does not present any “atypical or complex legal issues.” (*Id.*)

Second, Yomi’s medical conditions are not new since the court last denied his request for counsel. Most of the medical records submitted with his motion discuss his condition in 2015-2017 (which indicated severe depression and anxiety), as well as a back injury in 2020. (ECF 154-2 through 154-4.) The records indicate Yomi is taking medication to control his medical conditions. As mentioned above, despite these conditions, Yomi has been able to present his case clearly and adequately to this court. His medical conditions have not prevented him from effectively reviewing and complying with court orders and timely filing motions seeking relief from the same.

Finally, Yomi asserts his claims are meritorious because he brings 14, rather than 2 or 3, claims of discrimination. The court remains “unable to determine at this stage whether [Yomi’s] claims are particularly meritorious.” (ECF 5, at 4.) The number of claims asserted do not prove their merit. However, as set forth in the court’s May 17 order, Yomi may renew his motion for appointment of counsel at a later procedural juncture (such as if and when he is preparing for trial after succeeding on summary judgment motions).

**IT IS THEREFORE ORDERED** that Yomi’s Motion for Appointment of Attorney (ECF 154) is denied without prejudice to refile.

Dated March 28, 2022, at Kansas City, Kansas.

s/ Angel D. Mitchell  
Angel D. Mitchell  
U.S. Magistrate Judge