

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

**ADAM A. LOCKE,**

**Plaintiff,**

v.

**CASE NO. 21-3051-SAC**

**UNITED STATES OF AMERICA,  
et al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

Plaintiff proceeds *pro se* and *in forma pauperis* in this civil rights case. At the time of filing, Plaintiff was incarcerated at USP-Leavenworth in Leavenworth, Kansas (“USPL”). Plaintiff is currently incarcerated at Fort Dix FCI in Fort Dix, New Jersey. On July 23, 2021, the Court entered a Memorandum and Order to Show Cause (Doc. 6) (“MOSC”), granting Plaintiff an opportunity to file an amended complaint to cure the deficiencies set forth in the MOSC. The Court screened Plaintiff’s Amended Complaint (Doc. 9) and ordered the officials responsible for the operation of USPL to prepare a *Martinez* Report. (Doc. 12.) The *Martinez* Report has now been filed. (Doc. 17.) The Court entered an Order (Doc. 18) granting Plaintiff an opportunity to respond to the *Martinez* Report. The Court screened Plaintiff’s Amended Complaint in light of the Report and ordered Defendants to file an answer or otherwise respond to Plaintiff’s Amended Complaint by July 19, 2022. This matter is before the Court on Plaintiff’s Motion for Appointment of Counsel (Doc. 23).

Plaintiff seeks the appointment of counsel in order to obtain eyewitness statements and sworn testimony. Plaintiff indicates that he will need assistance in locating witnesses and in obtaining medical evidence.

The Court previously denied Plaintiff’s request for appointment of counsel. (Doc. 5.) The Court noted that there is no constitutional right to appointment of counsel in a civil case. *Durre v.*

*Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989); *Carper v. DeLand*, 54 F.3d 613, 616 (10th Cir. 1995). The decision whether to appoint counsel in a civil matter lies in the discretion of the district court. *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). The Court denied the prior request without prejudice to refiling the motion at a later stage of the proceedings. (Doc. 5, at 2.)

The Court denies the current request for appointment of counsel for the same reasons set forth in the Court's prior order. Plaintiff is concerned with obtaining discovery, and this case has not entered the discovery phase. The Court may reconsider Plaintiff's request at a later stage of the proceedings.

**IT IS THEREFORE ORDERED THAT** Plaintiff's Motion for Appointment of Counsel (Doc. 23) is **denied without prejudice**.

**Dated July 6, 2022, in Topeka, Kansas.**

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