

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH,
CENTRAL DIVISION

Justin Pour v. Utah Army National Guard, et al.

Pour · No. 2:25-cv-00281 · Decided March 30, 2026

SUMMARY

The United States District Court for the District of Utah denied Justin Pour’s motion for appointment of counsel under 28 U.S.C. § 1915(e)(1). The court concluded that his constitutional claims, factual issues, and lack of legal experience did not justify appointment of counsel and that he appeared capable of proceeding pro se.

CASE DETAILS

COURT	United States District Court for the District of Utah, Central Division
WRITING FOR THE COURT	Daphne A. Oberg
JURISDICTION	United States District Court for the District of Utah, Central Division
DECIDED	March 30, 2026
DOCKET	2:25-cv-00281
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and in forma pauperis, moved for appointment of counsel under 28 U.S.C. § 1915(e)(1).
STANDARD OF REVIEW	Appointment of counsel in a civil case is committed to the court's discretion, based on factors including the merits of the claims, the nature and complexity of the factual and legal issues, and the litigant's ability to present the claims.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court memorandum decision and order

TOPICS

- civil procedure
- constitutional law
- civil rights
- military law

PRACTICE AREAS

- civil procedure
- civil rights
- constitutional law
- military law

QUESTIONS PRESENTED

1. Whether the court should appoint counsel for an indigent pro se civil litigant under 28 U.S.C. § 1915(e) (1).
2. Whether the merits, factual and legal complexity, and Pour's ability to present his claims justified discretionary appointment of counsel.

HOLDINGS

1. A civil litigant has no constitutional right to appointed counsel; appointment of counsel in a civil case is discretionary.
2. Pour did not justify appointment of counsel because his constitutional claims and factual issues were not unusually complex, the merits were not yet apparent, and he appeared capable of prosecuting the action.

KEY QUOTATIONS

"There is no constitutional right to appointed counsel in a civil case."

"Considering these factors and Mr. Pour's arguments, appointment of counsel is unjustified."

FACTUAL BACKGROUND

Pour brought constitutional claims concerning a discrete series of events surrounding his separation from the Utah Army National Guard. He asserted that the case involved complex factual issues, including lost or destroyed iPhone evidence, documents requiring forensic examination, and numerous witnesses. He also argued that his lack of legal education and experience impaired his ability to litigate and that his claims were meritorious.

PROCEDURAL HISTORY

Justin Pour filed a civil action without counsel and without paying the filing fee. The court granted his motion to waive the filing fee. Pour then moved for appointment of counsel, and the court denied that motion.

DISPOSITION

other

CASES CITED

- Durre v. Dempsey, 869 F.2d 543, 547 (10th Cir. 1989)
- Shabazz v. Askins, 14 F.3d 533, 535 (10th Cir. 1994)
- Rucks v. Boergermann, 57 F.3d 978, 979 (10th Cir. 1995)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH CENTRAL DIVISION
JUSTIN POUR, MEMORANDUM DECISION AND ORDER DENYING PLAINTIFF'S

Plaintiff, MOTION FOR APPOINTMENT OF COUNSEL v. (DOC. NO. 20) UTAH ARMY NATIONAL GUARD, et al., Case No. 2:25-cv-00281 Defendants. Magistrate Judge Daphne A. Oberg Justin Pour filed this action without an attorney and without paying the filing fee.¹ Mr. Pour now requests the appointment of counsel.² Because Mr. Pour does not justify the appointment of counsel, the motion is denied.

While defendants in criminal cases have a constitutional right to representation by an attorney,³ “[t]here is no constitutional right to appointed counsel in a civil case.”⁴ Appointment of counsel in civil cases is left to the court’s discretion.⁵ Indigent parties in civil cases may apply for the appointment of counsel under 28 U.S.C. § 1915(e)(1), which allows a court to “request an attorney to represent any person unable to afford 1 (See Redacted Compl., Doc.

No. 8; Order Granting Mot. to Waive Filing Fee, Doc. No. 9.) 2 (Mot. for Appointment of Counsel (Mot.), Doc. No. 20.) 3 See U.S. Const. amend. VI; Fed. R. Crim. P. 44. 4 *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989). 5 *Shabazz v. Askins*, 14 F.3d 533, 535 (10th Cir. 1994). counsel.” When deciding whether to appoint a lawyer, the court considers a variety of factors, including “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present [the] claims, and the complexity of the legal issues raised by the claims.”⁶ Mr. Pour addresses each of these factors in his motion and argues they are met.⁷ He asserts the legal issues are complex because he brings federal constitutional claims.⁸ He argues the case also presents complex factual issues, including that exculpatory evidence has been lost or destroyed on an iPhone, documents require forensic examination, and there are numerous witnesses.⁹ And he contends his lack of legal education and experience impairs his ability to effectively prosecute this case.¹⁰ Finally, he provides a detailed explanation for why he believes his case is meritorious.¹¹ Considering these factors and Mr. Pour’s arguments, appointment of counsel is unjustified.

Mr. Pour is correct that constitutional claims, such as his, may present complex legal issues. But pro se parties commonly bring constitutional claims and are routinely required to litigate those claims without appointed counsel in civil cases. This case does not appear to involve claims of unusual complexity compared to those 6 *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir.

1995) (citation omitted). 7 (Mot. 3–4, Doc. No. 20.) 8 (Id. at 3.) 9 (Id. at 3–4.) 10 (Id.) 11 (Id. at 4–5.) routinely litigated by pro se parties. Likewise, the factual issues do not appear unusually complex: Mr. Pour’s claims relate to a discrete series of events surrounding his separation from the Utah Army National Guard. And it is not yet apparent whether the case is meritorious.

Finally, Mr. Pour’s lack of legal education and experience does not justify the appointment of a lawyer, where the same is true of most unrepresented litigants. Indeed, Mr. Pour appears capable of prosecuting his claims, based on a review of his filings to date in this case.

For these reasons, Mr. Pour's motion for appointment of counsel' is denied. DATED this 30th day of March, 2026. BY THE COURT: capes Clg United States Magistrate Judge 12 (Doc. No. 20.)

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