

Before WOLLMAN, Chief Judge, BOWMAN, and BEAM, Circuit Judges.

PER CURIAM.

In this appeal following remand, see Cofer v. Schriro, 176 F.3d 1082 (8th Cir. 1999) (per curiam), Missouri inmate Dwight E. Cofer appeals the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 action regarding the free exercise of his Rastafarian religion. We agree with the district court that the only issue before it on remand was whether appellees violated Cofer's First Amendment rights when he was required to cut his hair as a condition of continuing in the drug-treatment program at Farmington Treatment Center. See Borchers v. Commissioner, 943 F.2d 22, 23 (8th Cir. 1991).

Having conducted a de novo review of the record, see Rouse v. Benson, 193 F.3d 936, 939 (8th Cir. 1999) (standard of review), we conclude that Cofer's free-exercise claim fails as a matter of law, see O'Lone v. Estate of Shabazz, 482 U.S. 342, 345, 348, 351-52 (1987); Hamilton v. Schriro, 74 F.3d 1545, 1550-51 (8th Cir.), cert. denied, 519 U.S. 874 (1996); Iron Eyes v. Henry, 907 F.2d 810, 814-16 (8th Cir. 1990). We further conclude that Cofer's Establishment Clause claim, raised for the first time in his resistance to summary judgment, was not properly before the district court. Finally, we find that the court did not abuse its discretion in declining to appoint counsel for Cofer. See Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998).

Accordingly, the judgment is affirmed. See 8th Cir. R. 47B.

¹The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the Honorable William A. Knox, United States Magistrate Judge for the Western District of Missouri.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.