

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BERNARD TAINTER,

Plaintiff,

v.

STATE OF WISCONSIN DEPARTMENT
OF HEALTH AND FAMILY SERVICES; STEVE
WATTERS, SRSTC Director; and
MICHAEL DITTMAN, SRSTC Security Director,

Defendants.

ORDER

02-C-540-C

Plaintiff Bernard Tainter is a patient at the Sand Ridge Secure Treatment Center in Mauston, Wisconsin. He was granted leave to proceed in forma pauperis in this action on November 4, 2002, on his claim that his First Amendment right to practice his religion is being denied by policies in place at the Sand Ridge Secure Treatment Center. Presently before the court is plaintiff's motion for appointment of counsel.

In determining whether counsel should be appointed, I must first find that plaintiff has made reasonable efforts to retain counsel and was unsuccessful or that he was precluded from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992).

Plaintiff must provide the court with the names and addresses of at least three lawyers that he has asked to represent him in this case and who have declined to take the case before I can find that he has made reasonable efforts to secure counsel.

Plaintiff should be aware that if he attempts to obtain a lawyer and is unsuccessful, that does not mean that one will be appointed for him automatically. At that point, the court must determine whether he is competent to represent himself given the complexity of the case, and if he is not, whether the presence of counsel would make a difference in the outcome of his lawsuit. Zarnes v. Rhodes, 64 F.3d 285 (7th Cir. 1995), citing Farmer v. Haas, 990 F.2d 319, 322 (7th Cir. 1993). This case is simply too new to permit the court to assess plaintiff's abilities or the potential outcome of the lawsuit. Therefore, his motion will be denied without prejudice to his renewing it at some later stage of the proceedings.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel is DENIED as premature.

Entered this 3rd day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge