

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

JERRY MEANS,

Plaintiff,

v.

ORDER

02-C-0695-C

PETER HUIBREGTSE, JON LITSCHER,
DR. C. CULLEN, Psychologist,
DR. TWILA HAGAN, Head Psychologist,
CAPTAIN BLACKBURN, JANE DOE, Staff,
and CORR. OFFICER DIVALL,

Defendants.

This is a proposed civil action for monetary and declaratory relief brought pursuant to 42 U.S.C. § 1983, in which plaintiff Jerry Means, an inmate at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, alleges that he was denied adequate psychiatric services at the prison.

Presently before the court is plaintiff's third motion for appointment of counsel. Like plaintiff's first and second motion for appointment of counsel, this motion will be denied as premature.

The court denied plaintiff's second motion for appointment of counsel on March 19, 2003, and, three days later on March 22, 2003, plaintiff filed the present motion. The only event that has transpired in those few days is that the marshal has filed proof that he served defendants Cullen and Hagen with plaintiff's complaint. Answers have yet to be filed by either of the defendants.

As in the two prior motions, it is still unclear whether plaintiff's case will be decided on the merits or whether the case will be dismissed on a procedural issue, such as exhaustion of administrative remedies. Once defendants have filed their responsive pleadings, the court can then determine whether plaintiff 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).

As I have advised plaintiff already, this case is simply too new to permit the court to assess his abilities or the potential outcome of the lawsuit. Therefore, the motion will be denied without prejudice to plaintiff's renewing it at some later stage of the proceedings.

ORDER

IT IS ORDERED that plaintiff Jerry Means's motion for appointment of counsel is DENIED without prejudice.

Entered this 1st day of April, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge