

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

SHAWN McGARVEY,

Plaintiff,

v.

THOMAS BORGAN,
ANDREW BATH and
LT. DOMMISSE,

Defendants.

ORDER

04-C-269-C

The parties in this case are briefing defendants' motion to dismiss plaintiff's case on the ground that he failed to exhaust his administrative remedies before bringing his lawsuit as required by 42 U.S.C. § 1997e(a). Plaintiff has opposed the motion with documentation relating to his exhaustion efforts. Defendants have until September 3, 2004, in which to serve and file a reply. Now plaintiff has filed a motion for appointment of counsel.

In support of the request, plaintiff argues that he has limited skill to prosecute his own action and that the issues are complex and may require investigation that plaintiff cannot conduct so long as he is incarcerated.

In considering whether counsel should be appointed, I first must determine whether

plaintiff made reasonable efforts to retain counsel and was unsuccessful or whether he was precluded effectively from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). Plaintiff states that he has tried to find a lawyer but has been unable to do so. Ordinarily, before the court will find that the plaintiff has made reasonable efforts to secure counsel it requires a plaintiff to provide the names and addresses of at least three lawyers that he has asked to represent him and who have declined to take the case. Plaintiff has not made the necessary showing. Therefore, his motion will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for the appointment of counsel is DENIED because he has failed to show that he made reasonable efforts to retain counsel and has been unsuccessful or that he has been precluded effectively from making such efforts.

Entered this 31st day of August, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge