

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

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SCOTT REIDELL,

Plaintiff,

ORDER

v.

05-C-667-C

CO RON GRAY, in his individual capacity,

Defendant.  
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Plaintiff Scott Reidell, a prisoner at the New Lisbon Correctional Institution, is proceeding in this action on his claim that defendant Gray used excessive force against him in violation of the Eighth Amendment when he let plaintiff fall as plaintiff stepped out of the van in a hospital parking lot and then retaliated against him for filing an offender complaint about the matter in violation of the First Amendment. Presently before the court is plaintiff's third motion for appointment of counsel.

In an order dated December 8, 2005, I denied plaintiff's first motion for appointment of counsel first because he had not shown that he had made reasonable efforts to secure counsel on his own and because it was too early to assess his abilities against the complexity of the claims on which he would be allowed to proceed. On January 4, 2006, I denied

plaintiff's second motion, finding again that plaintiff had not tried to find a lawyer on his own and that, even if he had, his claims against defendant Gray are so simple that, even if plaintiff is of modest intelligence, he is capable of proceeding on his own.

In support of his third motion, plaintiff says that his reading ability is at the eighth grade level and that the inmate who has been helping him has been transferred, leaving him to prosecute this case completely on his own. Plaintiff asserts that when he received the preliminary pretrial conference order and attached materials from the United States Magistrate Judge following the March 9 preliminary pretrial conference, he discovered that he cannot understand any of the materials. According to plaintiff, if a lawyer is not appointed to help him, he will have to dismiss this case voluntarily.

I can understand plaintiff's concern that he has much to learn about federal court proceedings before his case will end. However hard to understand the papers attached to the magistrate judge's order might be to plaintiff as he looks them over now, however, they have been written for persons just like him, persons with little legal knowledge and limited language skills. Perhaps they will make more sense to plaintiff if he reads each one of the procedures at such time as it is needed, instead of trying to absorb all the information in one sitting now. For example, plaintiff has no need at this time to learn about the procedures for calling witnesses to trial. Although a trial date has been set, it is a long way off and plaintiff's claims may be resolved by motion before a trial becomes necessary. Moreover, if

defendant moves for summary judgment, plaintiff will be able at that time to review the court's summary judgment procedures along with defendant's filings and use defendant's submissions as a guide in preparing his response.

As I told plaintiff when I denied his second motion for appointment of counsel, he should be able to tell the court in writing what happened to him in the hospital parking lot and he should be able to get his medical records to show what injury he suffered as a result of the fall. In addition, he should be able to explain the facts that make him believe defendant Gray's motive for giving him a conduct report was retaliatory instead of a lawful reason. The law regarding plaintiff's claims was explained to him in the December 8 order. The explanation is simple and straightforward. In sum, I do not believe plaintiff is incapable of representing himself in this case given its simplicity or that a lawyer will make a difference in the outcome of the case.

#### ORDER

IT IS ORDERED that plaintiff's third motion for appointment of counsel is

DENIED.

Entered this 21st day of March, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge