

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

JAMES M. UPTHEGROVE,

Plaintiff,

v.

HEALTH PROFESSIONALS, LTD and
STACY ROSE, RN,

Defendants.

ORDER

3:07-cv-0596-bbc

Plaintiff in proceeding in this case on his claims that defendant Health Professionals, Ltd. violated his constitutional rights by implementing a policy under which his prescribed mental health medications have been withheld from him and that defendant Rose was deliberately indifferent to his serious medical need for his prescribed mental health medications. Now, it has come to the court's attention that there are two matters that require resolution in this case. The first is a letter from plaintiff dated October 17, 2007, that I construe as a motion for appointment of counsel and the second is a letter from plaintiff dated December 6, 2007, that I construe as a motion to amend the caption.

In deciding whether to appoint counsel, I must first find that plaintiff has made

reasonable efforts to find a lawyer on his own and has been unsuccessful or that he has been prevented from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). Plaintiff does not say that he has been prevented from trying to find a lawyer on his own. To prove that he has made reasonable efforts to find a lawyer, plaintiff must give the court the names and addresses of at least three lawyers that he asked to represent him in this case and who turned him down.

Plaintiff should be aware that even if he is unsuccessful in finding a lawyer on his own, that does not mean that one will be appointed for him. At that point, the court must consider “whether the difficulty of the case—factually and legally—exceeds the particular plaintiff’s capacity as a layperson to coherently present it to the judge or jury himself.” Pruitt v. Mote, 503 F.3d 647, 655 (7th Cir. 2007). This case is simply too new to allow the court to evaluate plaintiff’s abilities or the likely outcome of the lawsuit. Therefore, the motion will be denied without prejudice to plaintiff’s renewing his request at a later time.

Turning to plaintiff’s motion to amend the caption, I must deny this motion as moot. In his motion to amend the caption, plaintiff asks the court to allow him to replace defendant Cullinan with his full name, Stephen A. Cullinan. Because plaintiff was not allowed to proceed on his claims against defendant Cullinan in the December 26, 2007

order, I will deny his motion to amend the caption.

ORDER

IT IS ORDERED that

1. Plaintiff's motion for appointment of counsel is DENIED.
2. Plaintiff's motion to amend the caption is DENIED as moot.

Entered this 31st day of January, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge