

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

LAMONT D. WALKER,

Plaintiff,

v.

RYAN ARMSON, *et al.*,

Defendants.

ORDER

09-cv-756-slc

Plaintiff Lamont Walker, a prisoner at the Columbia Correctional Institution, is proceeding in this case on his claims that defendants were deliberately indifferent to his serious dental need in violation of his Eighth Amendment rights. Now before the court is plaintiff's motion for appointment of counsel.

Plaintiff has taken the initial step of making a reasonable effort to find a lawyer on his own without any success, as required under *Jackson v. County of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992). However, even though plaintiff had shown that he made a reasonable effort, this case has not progressed sufficiently to allow me to determine the complexity of the issues and plaintiff's competence to prosecute his case, *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007), so I will deny his motion.

As a starting point, this court would appoint a lawyer to almost every pro se plaintiff if lawyers were available to take these cases. But they are not. Most lawyers do not have the time, the background or the desire to represent pro se plaintiffs in a pro bono capacity, and this court cannot make them. Congress has appropriated funds for court-appointed counsel in criminal cases but it has not appropriated any funds for court-appointed counsel in civil cases like this one. Lawyers who accept appointments to represent pro se plaintiffs in civil cases can obtain

compensation for their services only if they are successful and even then, the compensation may fall short of their time and effort. So the court only appoints counsel in cases where there is a demonstrated need, using the appropriate legal test.

In his motion, plaintiff says he requires the assistance of a lawyer because his imprisonment in segregation will greatly limit his ability to litigate this case, the issues in this case are complex , and that proving his claim will require significant research and investigation. With respect to the complexity of the case, the law governing plaintiff's claim is straightforward and was explained to him in the order granting him leave to proceed. As for the proving his claim through research and investigation, plaintiff's case relies on facts. Plaintiff has personal knowledge of the facts and circumstances surrounding the lawsuit and he should already possess, or be able to obtain through discovery, the relevant documentation that he needs to prove his claim.

Turning to plaintiff's argument that his segregation status will limit his ability to litigate this case, plaintiff should know that he is in the same position as many other pro se prisoner litigants who have limited access to the law library. He should be able to obtain access to his own medical records to corroborate this information. In addition, at the preliminary pretrial conference on December 29, 2010, I instructed plaintiff on how to use discovery techniques available to all litigants so that he can gather the evidence he needs to prove his claim. On December 30, 2010, plaintiff was mailed the procedures discussed at the conference, which were written for the very purpose of helping pro se litigants understand how these matters work.

In denying plaintiff's motion, I stress that the rulings reflect my assessment of plaintiff's ability to prosecute the case at its current stage only; if at some point plaintiff's circumstances

change, and it keeps him from litigating the case, he is free to write to the court for additional clarification about procedures or renew his motion for appointment of counsel.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. 44, is DENIED without prejudice.

Entered this 18th day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge