

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

EUGENE STRADER, SR.,

Plaintiff,

v.

GREGG FEARDAY, MRS. TRATE
and MRS. PADILLA,

Defendants.

ORDER

10-cv-55-slc

Plaintiff is proceeding in this *Bivens* action on his claims that defendants violated his equal protection rights. Now, plaintiff has filed a motion for appointment of counsel. I am denying this motion without prejudice.

The Court of Appeals for the Seventh Circuit has held that before a district court can consider such motions, it must first find that the plaintiff made reasonable efforts to find a lawyer on his own and was unsuccessful or was prevented from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). Plaintiff suggests that he has made reasonable efforts to find a lawyer, but the motion that he submitted does not bear this out. The “reasonable efforts” standard requires plaintiff to submit to this court at least three rejection letters from three different lawyers or law firms that petitioner asked to represent him but who turned him down. Plaintiff can obtain the names of lawyers in the Western District of Wisconsin whose practices include equal protection rights cases by contacting the Wisconsin State Bar Lawyer Referral and Information Service at P.O. Box 7158, Madison, Wisconsin, 53707, 1-800-362-8096.

Even if plaintiff does not find a lawyer on his own, this does not mean that the court will appointed an attorney for him. 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.

Turning to plaintiff's argument that his lack of knowledge of civil law will limit his ability to litigate this case, plaintiff is in the same position as most other pro se prisoner litigants, who have limited knowledge of civil law. In addition, at the preliminary pretrial conference on August 13, 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 August 16, 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 this ruling reflects my view of plaintiff's ability to prosecute the case at its current stage only. Later in this case, if plaintiff's circumstances change, and plaintiff cannot adequately litigate this case on his own, then he is free to write to the court for additional clarification about procedures or he may renew his motion for appointment of counsel, and the court will review the situation .

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. 25, is DENIED without prejudice.

Entered this 6th day of April, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge