

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

OLIVER A. PENTIMAKI, JR.,

Plaintiff,

v.

Security Director THELEN, *et al.*,

Defendants.

ORDER

10-cv-194-slc

Plaintiff Oliver Pentimaki is proceeding in this case on claims that defendants failed to protect him from another inmate in violation of the Eighth Amendment and that defendant Kelly also prevented him from filing a grievance in violation of the First Amendment. Now before the court is plaintiff's motion for appointment of counsel. Dkt. 15.

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. So the court only appoints counsel in cases where there is a demonstrated need, using the appropriate legal test.

As a first step plaintiff must make a reasonable effort to find a lawyer on his own. *Jackson v. County of McLean*, 953 F.2d 1070 (7th Cir. 1992). Plaintiff states that he has contacted three law firms that have declined to represent him. That is enough of an attempt, but it is only the first step.

Next, the court must consider both the complexity of the case and the pro se plaintiff's ability to litigate it himself. *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007). Plaintiff says that he is unable to afford counsel and that his imprisonment will greatly limit his ability to litigate his case. Also, plaintiff speculates that after his release from the Wisconsin Resource

Center, his release will be revoked in a matter of days and that he will then be incarcerated in the Dane County Jail, where he will be severely limited in litigating this case.

Perhaps this all may turn out to be true, but at this stage in the proceedings plaintiff appears capable of representing himself. To help plaintiff, this court will hold a telephonic conference after the defendants file their answer at which the court will explain the way things work in this court. Then the court will send plaintiff a written order that provides more information, including copies of this court's procedures for filing or opposing dispositive motions and for calling witnesses, both of which were written for the very purpose of helping pro se litigants.

As for the complexity of the case, there is nothing in the record to suggest that this case is factually or legally difficult. Plaintiff has personal knowledge of relevant events and he should be able to obtain through discovery documents he needs to prove his claim. In sum, I am not persuaded that plaintiff's case is so complex or his skills so lacking that appointment of counsel is warranted at this time. The motion will be denied without prejudice to petitioner bringing it at a later stage in his lawsuit.

ORDER

It is ORDERED that plaintiff's motion for appointment of counsel, dkt. 15, is DENIED.

Entered this 25th day of August, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge