

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

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SHAN STAMPER,

Plaintiff,

v.

DR. THOMAS WILLIAMS, BETH DITTMAN,  
DR. GLEN HEINZL, DR. BRETT REYNOLDS  
and CANDACE WARNER,

Defendants.

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ORDER

10-cv-334-wmc

Plaintiff Shan Stamper has been allowed to proceed *in forma pauperis* on his claims that defendants Dr. Thomas Williams, Beth Dittman, Dr. Glen Heinzl, Dr. Brett Reynolds and Candace Warner were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment. Defendants have answered the complaint and a preliminary pretrial conference is set to be held on April 13, 2011. Now before the court is plaintiff's motion for appointment of counsel. Dkt. 14.

In determining whether to appoint counsel, I must find first 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, 1073 (7th Cir. 1992). 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 whom he asked to represent him in this case and who turned him down. Plaintiff has made this showing by attaching copies of four letters he has sent to lawyers who have declined to represent him.

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.

Appointment of counsel is appropriate in those relatively few cases in which it appears from the record that the legal and factual difficulty of the case exceeds the plaintiff's demonstrated ability to prosecute it. *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007). It is too early to make that determination in this case. In his motion, plaintiff does not explain why he requires the assistance of a lawyer. Although plaintiff may lack legal knowledge, he is in the same position as most other pro se litigants, almost none of which have legal training of any kind. As this case progresses, plaintiff will improve his knowledge of court procedure. To assist plaintiff in this regard, I will instruct plaintiff at the preliminary pretrial conference set for April 13, 2011, about how to use discovery techniques available to all litigants so that he can gather the evidence he needs to prove his claim. Plaintiff will have an opportunity to ask questions about this court's procedures and he will be sent a written copy of the procedures discussed at the conference, which were written for the very purpose of helping pro se litigants understand how these matters work.

At this stage, it is simply too early to tell if plaintiff lacks the ability to litigate his case. So far, plaintiff's submissions have been and coherent and well organized and it appears that plaintiff is capable of following court instructions. Therefore, the motion will be denied without prejudice to plaintiff's renewing his request at a later time.

ORDER

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

Entered this 6<sup>th</sup> day of April, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge