

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

LAMONT E. MOORE,

Plaintiff,

v.

DR. GLEN HEINZL,

Defendant.

ORDER

10-cv-390-bbc

Plaintiff Lamont E. Moore is proceeding in this case on a claim that defendant Dr. Glen Heinzl violated his Eighth Amendment rights by failing to provide dequate medical treatment. Also, plaintiff has been given an opportunity to supplement his complaint with additional information concerning a medical negligence claim. Now before the court is plaintiff's motion for appointment of counsel. Dkt. 5.

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 has attached to his motion an affidavit stating that he has attempted to contact five law firms and has received no responses. This is an adequate showing, 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. Plaintiff states that although he is well-versed in civil law procedures, counsel would be helpful to him in obtaining records, finding expert witnesses, negotiating a settlement and preparing for trial.

Although there is no doubt that a lawyer could help plaintiff in these ways, at this stage in the proceedings, he appears capable of representing himself. To help plaintiff in this regard, this court instructs pro se litigants at a preliminary pretrial conference, which will be scheduled after the defendant files an answer, about how to use discovery techniques available to all litigants so that he can gather the evidence he needs to prove his claim. In addition, pro se litigants are provided a copy 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 understand how these matters work.

Finally, as to 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 the relevant events and he should be able to fill in the gaps through discovery. 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. Plaintiff may renew his motion at a later stage in this lawsuit if he thinks things have changed enough to persuade the court to change its view.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. 5 is DENIED.

Entered this 16th day of August, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge