

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

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GLENDAL STEWART,

Plaintiff,

v.

ERIK K. SHINESKI, Secretary,  
Department of Veteran Affairs,

Defendant.

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ORDER

10-cv-456-slc

Plaintiff Glendale Stewart is proceeding in this case on his claims that defendant Erik Shineski violated his rights in violation of Title VII of the Civil Rights Act and the Americans with Disabilities Act. Now before the court is plaintiff's motion for appointment of counsel.

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.

In deciding whether to appoint counsel, I must first find that plaintiff has made a reasonable effort to find a lawyer on his own and has been unsuccessful or that he has been prevented from making such an effort. *Jackson v. County of McLean*, 953 F.2d 1070 (7th Cir. 1992). To prove that he has made a reasonable effort to find a lawyer, plaintiff must give the court the names and addresses of at least three lawyers that he asked to represent him on the issues on which he has been allowed to proceed and who turned him down. Plaintiff has not yet

taken this first step. But even if plaintiff can show that he made a reasonable effort, then plaintiff also must show that his lawsuit is one of those relatively few cases in which it appears from the record that the legal and factual difficulty of the case exceeds plaintiff's 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 says he needs a lawyer because he believes the defendant is being "less than honest" in answering plaintiff's interrogatories and request for production of documents. Defendant has responded, clarifying that there was an inadvertent typographical error in the answers to the interrogatories, and he would supplement the affected answers if necessary. I detect no unfair tactics here that would require court action. If defendant refuses to produce discoverable documents or information, then plaintiff may file a motion to compel, at which time the court can decide whether plaintiff requires a particular document and, if so, what the proper course of action should be. So far, plaintiff is representing himself just fine. His submissions are well-written and he appears capable of following instructions and making intelligible arguments in his pleadings. In addition, plaintiff has personal knowledge of the events surrounding his claims and he should be able to fill in any gaps through discovery.

I am flagging one final matter: plaintiff's affidavit of indigency shows that plaintiff receives about \$24,000 in annual income. If plaintiff renews his request for appointed counsel later, then he will need to submit a new affidavit of indigency so that the court can also determine if plaintiff qualifies financially for appointed counsel.

For all these reasons, I am denying plaintiff's motion without prejudice. Plaintiff may renew his motion at a later stage in this lawsuit if he thinks things have changed enough to change the court's decision.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. 23, is DENIED without prejudice.

Entered this 13<sup>th</sup> day of July, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge