

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

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BRIAN PHEIL,

Plaintiff,

v.

SGT. BOWE, CO HAND, CO VARLEY,
CO RABUCK and KIMBERLY RICHARDSON,

Defendants.

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ORDER

10-cv-555-bbc

BRIAN PHEIL,

Plaintiff,

v.

TAMMY MAASSEN, DR. ADLER,
DR. BRET REYNOLDS and DR. HIRSCHMAN,

Defendants.

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ORDER

10-cv-659-bbc

In an order dated November 2, 2010 this court severed plaintiff's complaint filed in

Pheil v. Bowe, et al, 10-cv-555-bbc, into two cases as required by Fed. R. Civ. P. 20. On January 31, 2011, I denied plaintiff's first motion to appoint counsel as premature, dkt. 20. Now before the court is plaintiff's second motion for appointment of counsel.

In his motion, plaintiff raises arguments to those he set out as in his first motion to appoint counsel. Plaintiff states that he has no legal knowledge and he does not have anyone he trusts who can help him with his lawsuits. Plaintiff also says that he takes medication that which causes memory loss, making it difficult to litigate this case

As I previously explained to plaintiff, although he may lack legal knowledge, that is not a sufficient reason to appoint counsel, since this handicap is almost universal among pro se litigants. He should be able to obtain access to his own medical records to corroborate the information he needs to support his case. In addition, at the preliminary pretrial conference on January 28, 2011, the magistrate judge instructed plaintiff how to use discovery techniques available to all litigants so that he can gather the evidence he needs to prove his claims. On January 31, 2011, a written order explaining the procedures discussed at the conference was mailed to plaintiff. This order was written for the very purpose of helping pro se litigants understand how these matters work. With respect to case 10-cv-659, plaintiff should pay particular attention to the section on the procedure for responding to motions for summary judgment. As plaintiff is aware, defendants filed a motion for summary judgment in this case on September 16, 2011, and his response is due October 17, 2011.

The same procedure for following motions for summary judgment was also mailed to plaintiff on September 16, 2011.

In plaintiff's motion, he says that his medication for restless leg syndrom causes memory loss. As difficult as that must be, nothing in plaintiff's submissions shows that he is not capable of remembering what happened to him. In addition, as I explained above, he should be able to obtain his own records to corroborate this information and he can request other relevant documents, such as staff reports. Put another way, plaintiff's case depends on the facts. This court can and will apply the appropriate law to these facts, even if plaintiff cannot provide the law on his own or does not understand how the law applies to his facts.

I urge plaintiff to consult the pretrial conference order. If at some point he does not understand something that is happening in this case, he may write the court for additional clarification about procedures, but he has personal knowledge of the circumstances surrounding his claims and he should already possess or be able to obtain through discovery the relevant documents he needs to prove his claims. I am not persuaded that appointment of counsel is warranted in this case.

ORDER

IT IS ORDERED that plaintiff Brian Pheil's motion for appointment of counsel in

cases 10-cv-555 and 10-cv-659, dkts. ##29 and 17, is DENIED without prejudice.

Entered this 27th day of September, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge