

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

BRIAN PHEIL,

Plaintiff,

ORDER

v.

10-cv-555-bbc

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

Defendants.

BRIAN PHEIL,

Plaintiff,

ORDER

v.

10-cv-659-bbc

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

Defendants.

Plaintiff Brian Pheil is proceeding in two separate cases in this court on claims that defendant prison officials withheld the proper medications from him. Both cases have February 2012 trial dates. Defendants have filed motions for summary judgment in both

cases, and plaintiff has failed to file summary judgment responses by the deadlines set in the briefing schedules. Instead, plaintiff has filed a motion with both case captions seeking to stay summary judgment briefing and a third motion for appointment of counsel.

In support of his motions, plaintiff states that he is incapable of litigating the case himself and that two jailhouse lawyers began work on the cases and then declined to assist him further in opposing the summary judgment motions. As I stated in the previous two orders denying plaintiff's earlier motions for appointment of counsel, I am not persuaded that appointment of counsel is warranted in this case. Plaintiff may have experienced some difficulty finding reliable help from jailhouse lawyers, but he may still be able to find assistance from another inmate. In any case, plaintiff he has not yet shown that he is incapable of litigating these actions. These cases depend largely on the facts surrounding plaintiff's treatment history. Plaintiff should be able to obtain his own records to corroborate his claims. This court 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.

Accordingly, I will deny plaintiff's third motion for appointment of counsel without prejudice. Plaintiff will now have until January 19, 2012 to submit his materials in opposition to defendants' motions for summary judgment in both cases. This means that plaintiff should provide responses to defendants' proposed findings of fact, his own proposed

findings of fact and evidence supporting those facts, as explained in the court's procedures for briefing summary judgment motions that he has previously been provided. Defendants will have until January 31, 2012 to file their replies.

ORDER

IT IS ORDERED that

1. Plaintiff Brian Pheil's motion for appointment of counsel in cases 10-cv-555 and 10-cv-659, dkts. ##50 and 35, is DENIED without prejudice.

2. Plaintiff Brian Pheil's motion to stay briefing on defendants' motions for summary judgment in these two cases, dkts. ##47 and 32, is DENIED. Briefing on the summary judgment motions will proceed as detailed in the order above.

3. The trial dates in these cases are STRICKEN. New schedules will be set should the cases proceed past the summary judgment stage.

Entered this 19th day of December, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge