

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

LANCE SLIZEWSKI,

Plaintiff,

v.

JIM SCHWOCHERT

Defendant.

ORDER

10-cv-665-slc

In this case plaintiff was allowed to proceed *in forma pauperis* on his claim that prison staff recorded telephone calls between plaintiff and his lawyer. The defendant has not yet answered plaintiff's complaint. Now before the court is plaintiff's motion for appointment of counsel.

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 met this prerequisite. Moreover, even if the motion had been submitted properly, it is premature.

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.

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 says he needs a lawyer because he has no experience with civil lawsuits. Although plaintiff may lack legal knowledge, that is not a sufficient reason to appoint counsel, since this handicap is almost universal among pro se litigants. As this case progresses, plaintiff will improve his knowledge of court procedure. To help him, this court instructs pro se litigants at a preliminary pretrial conference 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, plaintiff will be provided with 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.

As for the complexity of plaintiff's case, nothing in the record suggests that it is factually or legally difficult. The law concerning plaintiff's claim was explained to him in this court's November 24, 2010 order. Plaintiff has personal knowledge of the circumstances surrounding his lawsuit. If he does not have copies of documents he needs to prove his claim, he can use discovery to obtain any additional information he needs to make his case. Because plaintiff's motion for appointment of counsel is premature, it will be denied without prejudice to him bringing it at a later stage in this lawsuit.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. #11, is DENIED.

Entered this 30th day of December, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge