

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

---

ANTONIO EDWARDS,

Plaintiff,

v.

ORDER

10-cv-722-wmc

STEVE HELGERSON, JOHN DOE 1-3,  
KIMM JOHNSON, DALIA SULIENE,  
LORI ALSUM, MARK ISAACSON,  
PAUL KATURKUS, PAUL PERSSON,  
LILLIAN TENEBRUSO and DR. ELLEN O'BRIEN,

Defendants.

---

On January 7, 2011, this court screened plaintiff's complaint and granted his request for leave to proceed on his Eighth Amendment deliberate indifference claims that defendants failed to provide him with adequate medical treatment for a separated shoulder. Defendants have been served with plaintiff's complaint and are expected to file an answer within a short time. 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. So the court only appoints counsel in cases where there is a demonstrated need, using the appropriate legal test.

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 submitted this information. Therefore, I could deny his motion on that ground alone.

Even if plaintiff had submitted proof that he had tried to find a lawyer on his own and had failed, I would not appoint counsel to represent him. In resolving a motion for appointment of counsel, a district 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). In his motion, plaintiff says he requires the assistance of a lawyer because he has no legal training and he has limited access to legal resources because he is in segregation. Plaintiff's lack of legal knowledge is not a good reason to appoint counsel in this case, as this handicap is almost universal to pro se litigants. The law governing plaintiff's Eighth Amendment claim regarding the denial of medical care was explained to him in the order granting him leave to proceed. Furthermore, plaintiff has personal knowledge of the circumstances surrounding his medical needs and lack of treatment and he should be able to obtain through discovery or already possess relevant documentation he needs to prove his claim.

To help plaintiff in this regard, this court instructs pro se litigants at a preliminary pretrial conference, which will be scheduled soon after defendants file a responsive pleading, 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. At the pretrial

conference plaintiff will be allowed to ask any questions he has about the discovery process and the rules of civil procedure.

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.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. #8, is DENIED without prejudice.

Entered this 30<sup>th</sup> day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge