

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

JAMES A. JONES,

Plaintiff,

v.

JO ANN SKALSKI, JAMES GRADY,
KESHA A. MARSON, MS. HINTZ,
MS. REMMERS, MR. COSBOB,
MR. LAWLER, MS. JOHNSON,
MR. MULVEY and JOHN DOE,

Defendants.

ORDER

10-cv-766-slc

Plaintiff James A. Jones is proceeding in this case on his claim that defendants prevented his early release from prison by several months in violation of the Constitution by refusing to inform the sentencing court that he had completed a “challenge incarceration program” under Wis. Stat. § 302.045, which authorizes early release from prison after successful completion of the program. Now before the court is plaintiff’s motion for appointment of counsel.

Plaintiff has taken the initial step of making a reasonable effort to find a lawyer on his own without any success, as required under *Jackson v. County of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992). However, even though plaintiff had shown that he made a reasonable effort, this case has not progressed sufficiently to allow me to determine the complexity of the issues and plaintiff’s competence to prosecute his case, *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007), so I will deny his motion.

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 his motion, plaintiff states that he is unable to afford counsel and that his imprisonment will greatly limit his ability to litigate his case. Plaintiff further states that this case is too factually complex for his abilities and that he requires the assistance of a lawyer because a lawyer would be able to better conduct discovery, challenge conflicting testimony at trial and skillfully present his claim. With respect to the complexity of the case, there is nothing in the record to suggest that this case is factually or legally difficult. Plaintiff has personal knowledge of the circumstances surrounding the events and he should be able to obtain through discovery or already possess relevant documentation he needs to prove his claim.

Turning to plaintiff's argument that his imprisonment will greatly limit his ability to conduct discovery and litigate this case, plaintiff should know that these handicaps are universal among pro se litigants. To help plaintiff in this regard, however, this court instructs pro se litigants at a preliminary pretrial conference, which will be scheduled after the defendant files an answer, 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. 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.

In denying plaintiff's motion, I stress that the ruling reflects my assessment of plaintiff's ability to prosecute the case at its current stage only; if at some point, plaintiff's circumstances

change, and it keeps him from litigating the case, he is free to write the court for additional clarification about procedures or renew his motion for appointment of counsel. The motion will be denied without prejudice to plaintiff bringing it at a later stage in his lawsuit.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. #4 is DENIED.

Entered this 31st day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge