

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

JAMES A. JONES,

Plaintiff,

v.

JOANN SKALSKI, *et al.*,

Defendants.

ORDER

10-cv-766-bbc

On August 26, 2011, the court denied plaintiff James A. Jones' motion to appoint expert witness and denied his motion to compel further discovery responses. Plaintiff moves reconsideration of that order and for appointment of counsel.

Plaintiff again asserts that the court must appoint an expert because of the complexity of plaintiff's damages claim. With a full understanding of what plaintiff is claiming, the court does not see the need to appoint an expert in this case. Plaintiff then claims to be confused because the court stated there are no funds to pay for an expert but also stated that one side or the other could pay for the expert. To clarify, if the court were to conclude that the court needed input from a neutral expert, then pursuant to F. R. Ev. 706, the court could appoint a neutral expert and then, under limited circumstances, apportion the cost of that expert between the parties. *Ledford v. Sullivan*, 105 F3d 354, 361 (7th Cir. 1997). But the court does not need to appoint a neutral expert in this case, so Rule 706 does not apply here. If a *party* chooses to call an expert witness, then that party is responsible for finding and paying the expert. This is true even for indigent parties. The court has no funds available to lend or give to an indigent litigant who wishes to hire an expert.

Plaintiff repeats his request for names of possible witnesses and reports written by staff. These requests are again denied for the reasons stated in the August 26, 2010 order. Accordingly, plaintiff's motion for reconsideration of that order will be denied.

Turning to plaintiff's second motion for appointment of counsel, plaintiff asks that he be appointed counsel because an experienced lawyer is needed to depose defendants and to investigate crucial facts. As this court already has explained, it 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. *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007)

Plaintiff has submitted no new information which persuades the court to reach a different decision that it did in its January 31, 2011 order denying plaintiff's first motion for appointment of counsel. 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. On April 29, 2011 a preliminary pretrial conference was held. At that time plaintiff was instructed on how to use discovery techniques available to all litigants so that he can gather the evidence he needs to prove his claim and was 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 fact, plaintiff has been conducting discovery and prosecuting his case quite well . 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:

1. Plaintiff's motion for reconsideration , dkt. 56, is DENIED.
2. Plaintiff's motion for appointment of counsel, dkt. 57, is DENIED.

Entered this 8th day of September, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge