

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

ROBERT E. ALEXANDER,

Plaintiff,

v.

ORDER

11-cv-808-slc

MARIE SVEC (WCI Social Worker),
RON WILLIAMS (WCI Social Worker) and
DARRELL ALDRICH (WCI Social Services Supervisor/Director),

Defendants.

In an order entered on September 25, 2012, the court gave plaintiff Robert Alexander an inmate at the Waupun Correctional Institution, until October 16, 2012 in which to submit an amended complaint that complies with Fed. R. Civ. P. 8. *See* dkt. 13.

Instead of filing an amended complaint, plaintiff has filed a motion for preliminary injunction on the ground that he is being denied access to legal materials with which to research and prepare his amended complaint in this case along with a motion for appointment of counsel. Plaintiff's motions will be denied.

As an initial matter, plaintiff's motion for preliminary injunction does not comply with this court's *Procedure To Be Followed On Motions For Injunctive Relief* a copy of which is included with this order. Under these procedures, plaintiff must file with the court and serve on defendants proposed findings of fact supporting his claim, and each factual proposition must be supported with a citation to the source of that proposition, such as pleadings, affidavits, exhibits or deposition transcripts. Plaintiff's failure to follow the proper procedural rules is sufficient grounds to deny plaintiff's motion for injunctive relief. However, even if I were to consider plaintiff's submissions as sufficient, his motion would still be denied.

Many of the allegations in plaintiff's motion for a preliminary injunction are not related to the merits of his claim that institution officials violated plaintiffs rights relating to visitation

with his daughter. Plaintiff did not assert a claim of denial of access to the courts in his complaint and he has not been granted leave to proceed on such a claim. Thus, his contention that he is being deprived of his right of access to the courts is not properly raised in the context of this lawsuit. *Porco v. Trustees of Indiana University*, 453 F.3d 390, 394-95 (7th Cir. 2006) (“[I]t is well settled that a federal court ‘has no authority . . . to declare principles or rules of law which cannot affect the matter in issue in the case before it.’”).

The only exception to this rule is if a prisoner alleges that he is being physically prevented from prosecuting his lawsuit. Although in his motion, plaintiff asserts that the defendants are withholding legal and other property that plaintiff needs to file a proposed amended complaint, plaintiff offers no evidence beyond broad, general statements of his need for this property. Given that plaintiff has had no problems sending numerous submissions to the court since the September 25 order was entered, I cannot find that plaintiff has been precluded from pursuing this case.

Turning to plaintiff’s request that the court appoint counsel to represent him in this case, his motion will be denied as premature. 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, 655 (7th Cir. 2007). It is far too early to make that determination in this case, as the court has not yet allowed plaintiff to proceed on any of his claims. Rule 8 problems are extremely common in pro se cases, and the court cannot appoint counsel for every plaintiff who desires help rectifying his or her complaint. Accordingly, I will deny plaintiff’s motion for appointment of counsel without prejudice to his filing it again at a later date.

Because the deadline for plaintiff to submit a proposed amended complaint has passed, I will grant plaintiff an extension of time until November 16, 2012 in which to submit a revised complaint. As was explained to plaintiff in the September 25 order, he should simply state (1)

what acts he believes violated his rights; (2) who committed those acts; (3) what rights were violated; and (4) what relief he wants the court to provide. There is no need for plaintiff to attempt to prove his case with evidentiary materials at the pleading stage. *Kolupa v. Roselle Park Dist.*, 438 F.3d 713, 714 (7th Cir. 2006). In addition, plaintiff should take care to state the *facts* of what happened rather than providing conclusory statements that his rights were violated without explaining how that occurred. For the purpose of Rule 8, plaintiff should number each paragraph, organize each of his claims separately and explain what defendants are involved in each claim, so each defendant can understand the claims against him or her.

ORDER

It is ORDERED that:

1. Plaintiff Robert Alexander's motion for preliminary injunction, dkt. 15, is DENIED.
2. Plaintiff's motion for appointment of counsel is DENIED without prejudice.
3. Plaintiff may have until November 16, 2012 in which to file an amended complaint that complies with Rule 8. If plaintiff fails to respond by that date, then the clerk of court is directed to close this case for plaintiff's failure to prosecute.

Entered this 26th day of October, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge