

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

JAMES TURNER,

Plaintiff,

v.

GARY HAMBLIN, *et al.*,

Defendants.

ORDER

12-cv-699-bbc

Plaintiff James Turner is proceeding *in forma pauperis* in this case on his claim that defendants violated his rights under the free exercise clause of the First Amendment. On January 18, 2013 defendants filed an answer to plaintiff's complaint and a preliminary pretrial conference is set for February 12, 2013. Now plaintiff has filed a renewed motion for appointment of counsel. *See* dkt. 20.

Earlier in this lawsuit plaintiff moved for appointment of counsel. The motion was denied in an order dated December 10, 2012, because at that time plaintiff had not shown that he had made a reasonable effort to find a lawyer in his own, as required by *Jackson v. County of McLean*, 953 F.2d 1070 (7th Cir. 1992). Now with his renewed motion, plaintiff has attached proof that he has contacted at least four lawyers, all of whom have declined to represent him or have not responded to his requests. Even though plaintiff has now complied with this preliminary requirement, 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. This court receives about 300 new pro se civil lawsuits every year and it has about 10 to 15 lawyers who are willing to take one such case pro bone each year. As a result, this court has no choice but to appoint counsel only in cases where there is a demonstrated need, using the appropriate legal test.

In his motion, plaintiff says he requires the assistance of a lawyer to help him gather the facts and discovery in order to respond to defendants motions. This is not an adequate reason to appoint counsel. Although plaintiff may lack legal knowledge, he is in the same position as most other pro se litigants, almost none of which have legal training of any kind. The facts of the case are within plaintiff's personal knowledge, and the law governing plaintiff's claims was explained to him in the December 3, 2012 order. In addition, the court will ensure that the relevant law is applied at summary judgment or at trial. Furthermore, plaintiff's lawsuit is in its earliest stages. A date for trial has not yet been scheduled and there are many steps yet to take to move the case to resolution. At the scheduled preliminary pretrial conference, plaintiff will be instructed 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 receive a copy of this court's procedures for filing or opposing dispositive motions which were written for the very purpose of helping pro se litigants understand how these matters work.

To date, plaintiff's submissions have been clear and well organized and reveal that he is able to understand and follow directions from the court. If at some point plaintiff does not understand something that is happening in this case, he is free to write to the court for additional clarification about procedures.

Accordingly, at this early stage of the case, I conclude that plaintiff has not shown that he is incapable of prosecuting this case on his own in light of its complexity. Should plaintiff's circumstances change, he is free to renew his motion at a later time.

ORDER

IT IS ORDERED that plaintiff James Turner's renewed motion for appointment of counsel, dkt. 20, is DENIED without prejudice.

Entered this 25th day of January, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge