

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

CHRISTOPHER HAMLIN,

Plaintiff,

v.

JASON WENZEL, MATTHEW BURNS,
SCOTT ROSS, ANDREW MOUNGEY,
JAMES BOGUTSKI, ANTHONY LOBIANCO and
JOHN DOE,

Defendants.

ORDER

13-cv-202-bbc

Plaintiff Christopher Hamlin, a prisoner now at the United States Penitentiary Big Sandy, in Inez, Kentucky, brought this case under 42 U.S.C. § 1983 while he was incarcerated at the Waupun Correctional Institution in Waupun, Wisconsin. Plaintiff was allowed to proceed on his Eighth Amendment claims that 1) defendants Wenzel and Bogutski used excessive force against him; 2) defendants Wenzel, Burns, Ross, Lobianco and Doe subjected plaintiff to an unlawful strip; and 3) defendant Moungey subjected plaintiff to inhumane conditions of confinement while plaintiff was in segregation. Currently before the court is plaintiff's motion for assistance in finding counsel to represent him in his case.

In deciding whether to assist plaintiff, 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 yet taken this first step.

However, even if plaintiff had shown that he made a reasonable effort, plaintiff must also demonstrate that his is one of those relatively few cases in which it appears from the record that the legal and factual difficulty of the case exceeds his ability to prosecute it. *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007). It is too early to make that determination in this case.

In his motion, plaintiff says he requires the assistance of a lawyer because he believes the issues in this case to be complex, his transfer to a federal institution in Kentucky limits his ability to investigate the facts needed to prove his case and that he has “severe mental health issues and no formal education.”

Although it is understandable that plaintiff is concerned that he may not be able to litigate this case himself, he should know that he is in the same position as most other pro se litigants, almost none of which have legal training of any kind. Thus far, plaintiff is doing a capable job of representing himself. His submissions are well written and he appears capable of following instructions and making intelligible arguments in his pleadings.

As for the proving his claims through investigation, plaintiff’s case relies on facts. Plaintiff has personal knowledge of the facts and circumstances surrounding the lawsuit and he should already possess, or be able to obtain through discovery, the relevant documentation that he needs to prove his claims. Plaintiff is capable of narrating what happened (or didn’t happen), when, where and who was involved. He should be able to obtain to his own records to corroborate this information, and he can request through discovery, other relevant documents such as staff reports. The court will apply the appropriate law to these facts, even if plaintiff cannot provide the law on his own or does not understand how the law applies to his facts.

The court will try to make litigating this case as easy for plaintiff as possible. The court's procedures were explained at the July 2, 2013 telephonic pretrial conference and plaintiff should have now received the written pretrial conference order, which is prepared for the very purpose of helping pro se litigants understand how their case will proceed and what their responsibilities are. If at some point plaintiff does not understand something that is happening in this case, he may write the court for additional clarification about procedures.

Plaintiff is free to renew his motion for appointment of counsel at a late time if he feels incapable of representing himself as the case proceeds, but he will have to provide the court with the names and addresses of at least three lawyers who he has asked to represent him in this case and who turned him down.

ORDER

IT IS ORDERED that plaintiff Christopher Hamlin's motion for assistance in the recruitment of counsel, dkt. 18, is DENIED without prejudice.

Entered this 8th day of August, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge