

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

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TERRANCE PRUDE,

Plaintiff,

v.

WILLIAM POLLARD, JEREMIAH LARSEN,  
CYNTHIA RADTKE and CORY SABISH,

Defendants.  
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ORDER

13-cv-512-bbc

Pro se prisoner Terrance Prude is proceeding to trial on his claim that several prison officials disciplined him for complaining about staff misconduct, in violation of the First Amendment. Now before the court is plaintiff's motion appointment of counsel, dkt. #65, which I construe as a motion for assistance in recruiting counsel under 28 U.S.C. § 1915(e)(1). In accordance with Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992), plaintiff has attached to his motion several letters from lawyers who have declined to represent him. Having reviewed plaintiff's motion, I am denying it because I am not persuaded that plaintiff has met the relevant standard, which is that the complexity of the case exceeds plaintiff's ability to litigate it. Pruitt v. Mote, 503 F.3d 647, 655 (7th Cir. 2007).

Plaintiff's case is relatively simple. It does not require him to present evidence regarding scientific, medical or other technical matters requiring expert testimony. Rather,

plaintiff's primary task will be to convince the jury that his version of the facts is more credible than defendants'. That is true in nearly every jury trial, so if that were enough to require recruitment of counsel, then courts would have to recruit counsel in nearly every case proceeding to trial involving a pro se litigant. The Court of Appeals for the Seventh Circuit has not adopted such a rule.

With respect to plaintiff's ability to litigate the case, plaintiff does not identify any specific limitations he has that are not shared by all other prisoners. For example, plaintiff does not suggest that he has a below-average IQ or that he suffers from a physical or mental health condition that would make him unable to represent himself at trial. Although plaintiff's trial experience may be limited, the court has provided plaintiff a trial preparation order that summarizes what he needs to do at trial.

Further, plaintiff's submissions in this case show that he has a greater ability to litigate than many other prisoners. He filed a clear and well-organized complaint and a successful motion to strike defendants' answer. His briefs have included citations to relevant legal authority and have demonstrated knowledge and understanding of the law. He has gathered evidence in the form of documents and affidavits from other prisoners to support his claim. Even before the court explained to plaintiff in the trial preparation order how to bring another prisoner to testify at trial, plaintiff brought a successful petition to allow two other prisoners to testify. In short, in light of plaintiff's demonstrated abilities, I see no reason why plaintiff is not capable presenting documentary evidence, examining witnesses and making arguments on his own behalf at trial.

Plaintiff argues that his failure to follow the court's summary judgment procedures is evidence that he is unable to represent himself, but I disagree. All of plaintiff's summary judgment materials displayed a level of skill and sophistication beyond that of most prisoners. Although plaintiff's proposed findings of fact did not comply with court rules, the quality of his other filings shows that the problem was a failure to read the instructions carefully rather than an inability to follow those instructions. Plaintiff should learn from that mistake at trial by taking the necessary time to review and understand the trial preparation order, along with the other materials provided by the court.

#### ORDER

IT IS ORDERED that plaintiff Terrance Prude's motion for assistance in recruiting counsel, dkt. #65, is DENIED.

Entered this 16th day of October, 2014.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge