

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

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RICHARD LEWIS,

Plaintiff,

v.

MICHAEL STEPHEN, THEODRE ANDERSON,  
BRYAN GERRY, and ANDREW MILLER,

Defendants.

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ORDER

15-cv-51-jdp

I granted *pro se* plaintiff Richard Lewis leave to proceed against defendants Michael Stephen, Theodore Anderson, Bryan Gerry, and Andrew Miller with his Fourth and Eighth Amendment claims for an improper strip search. Dkt. 5. Plaintiff has now moved for assistance recruiting counsel. Dkt. 14. Because this case has not progressed far enough for me to determine whether plaintiff will be capable of prosecuting it on his own, I will deny plaintiff's motion. But I will do so without prejudice to plaintiff refiling his motion later in this case.

Litigants in civil cases do not have a constitutional right to a lawyer and the court has discretion to determine whether assistance recruiting counsel is appropriate in a particular case. *Pruitt v. Mote*, 503 F.3d 647, 654, 656 (7th Cir. 2007). To prove that assistance recruiting counsel is necessary, this court generally requires a *pro se* plaintiff to: (1) provide the names and addresses of at least three lawyers who declined to represent him in this case; and (2) 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 demonstrated ability to prosecute it. *Id.* at 655; *see also Young v. Cramer*, No. 13-cv-077, 2013 WL 5504480, at \*2 (W.D. Wis. Oct. 3, 2013).

To support his motion for assistance recruiting counsel, plaintiff has submitted copies of three letters that he sent to attorneys asking them to represent him. Dkt. 14-2. But plaintiff has not filed any responses that he received to these inquiries. Thus, plaintiff has not demonstrated that his efforts have been unsuccessful. *See Jackson v. Cnty. of McLean*, 953 F.2d 1070, 1072-73 (7th Cir. 1992) (“[T]he district judge must first determine if the indigent has made reasonable efforts to retain counsel and was unsuccessful or that the indigent was effectively precluded from making such efforts.”). If plaintiff decides to file a motion for assistance recruiting counsel later in this case, then he must provide adequate documentation that he has requested assistance from at least three firms or attorneys, and that these requests have been unsuccessful.

Regardless, plaintiff cannot meet the second requirement for assistance recruiting counsel: demonstrating that the legal and factual difficulty of this case exceeds his ability to prosecute it. It is too early to tell whether plaintiff’s Fourth and Eighth Amendment claims will outstrip his litigation abilities. In particular, the case has not even passed the relatively early stage at which defendants may file a motion for summary judgment based on exhaustion of administrative remedies, which often ends up in dismissal of cases such as plaintiff’s before they advance deep into the discovery stage of the litigation. Should the case pass the exhaustion stage, and should plaintiff continue to believe that he is unable to litigate the suit himself, then he may renew his motion.

#### ORDER

IT IS ORDERED that plaintiff Richard Lewis’s motion for appointment of counsel,

Dkt. 14, is DENIED without prejudice to plaintiff renewing his motion later in this case.

Entered November 2, 2015.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge