

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

ROBERT LEE HAMILTON

ORDER

Petitioner,

15-cv-510-bbc

v.

TIM DOUMA, Warden

Respondent.

Petitioner Robert Lee Hamilton has filed this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has been allowed to go forward on his petition and the parties are currently briefing petitioner's claims. (Defendant's brief in opposition is due on March 17, 2015). On December 23, 2015, plaintiff filed a motion for assistance in recruiting counsel pursuant to 18 U.S.C. § 3006A, dkt. #23, which the court denied on January 5, 2016. Plaintiff has since filed a renewed motion for assistance in recruiting counsel, dkt. #26, which will be denied as well.

The Criminal Justice Act provides that a court may appoint counsel for a financially eligible petitioner seeking relief under § 2254 if "the court determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2). When ruling on requests for counsel in habeas cases, courts apply the same standard that applies to plaintiffs proceeding in forma pauperis in civil cases. Wilson v. Duckworth, 716 F.2d 415, 418 (7th Cir. 1983); see also Wingate

v. Pfister, No. 16-cv-00087, 2016 WL 739219, at *1 (S.D. Ill. 2016) (holding that court’s ability to appoint counsel in § 2254 cases “is governed by the standard utilized in other civil cases, which was articulated in Pruitt v. Mote, 503 F.3d 647, 654 (7th Cir. 2007)”). Under this standard, litigants must demonstrate that the complexities of the case exceed their abilities. Pruitt v. Mote, 503 F.3d 647, 655 (7th Cir. 2007). After reviewing petitioner’s renewed motion, as well as his other filings in this case, I conclude that petitioner is capable of continuing to represent himself and that assisting petitioner with the appointment of counsel is not warranted.

Petitioner’s argument in support of his request for counsel focuses primarily on the fact that he is not a trained lawyer. In particular, he points out that he “is a novice, has limited knowledge about the law, [and] lacks the legal training necessary to adequately draft legal briefs, do legal research, and make appropriate legal arguments[.]” If a lack of legal training by itself were sufficient to entitle litigants to counsel, the court would be required to appoint counsel in almost every pro se case. Unfortunately, the court cannot do this because there are not enough lawyers to serve the “sea of people” lacking counsel. Olson v. Morgan, 750 F.3d 708, 711 (7th Cir. 2014).

Petitioner also contends that his habeas claims are “complex.” However, plaintiff does not explain how or why that is the case. A bald assertion that claims are “complex,” without more, does not persuade me that counsel is necessary. In any event, I have reviewed petitioner’s briefs and filings in this case thus far and believe that despite the alleged complexity of his claims, petitioner understands the governing legal standards implicated by

his petition and motions. Moreover, petitioner's arguments are well-reasoned, well-organized and speak to the relevant issues in this case.

Finally, petitioner contends that I should appoint him counsel because he has been "dependent upon the assistance of a jail house lawyer." This argument is unavailing. The Court of Appeals for the Seventh Circuit has consistently pointed out that a litigant's reliance on a fellow inmate for assistance in drafting legal filings should not factor into a court's analysis when deciding whether to assist with the recruitment of counsel. Henderson v. Ghosh, 755 F.3d 559, 564 (7th Cir. 2014) ("[T]he fact that an inmate receives assistance from a fellow prisoner should not factor into the decision whether to recruit counsel."). A court can neither grant nor deny a litigant's motion for assistance with the recruitment of counsel on the ground that he or she has had the assistance of a jail house lawyer.

ORDER

IT IS ORDERED that petitioner Robert Lee Hamilton's motion for appointment of counsel, dkt. #26, is DENIED without prejudice.

Entered this 15th day of March, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge