

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

ARSENIO R. AKINS,

ORDER

Plaintiff,

15-cv-118-bbc

v.

CHARLES RIBBKE,

Defendant.

Plaintiff Arsenio R. Akins is proceeding on a single claim that defendant Charles Ribbke violated his First Amendment rights by refusing to provide him medical treatment in retaliation for plaintiff's filing various grievances against defendant and other prison guards. The case is set for trial on October 17, 2016.

Plaintiff has filed another motion for assistance in recruiting counsel, less than two weeks after I denied his last motion on the same issue. Because plaintiff has not identified any new reasons for needing a lawyer in this case, I am denying the new motion as well.

As I have explained to plaintiff in previous orders, the question raised by a motion for assistance in recruiting counsel is whether the complexity of the case exceeds the plaintiff's ability to litigate. Pruitt v. Mote, 503 F.3d 647, 654-55 (7th Cir. 2007). This case is a relatively simple one. Plaintiff is proceeding on a single retaliation claim that does not require him to obtain an expert or understand complex medical or scientific issues. Plaintiff's primary task at trial is simply to persuade the jury that he is telling the truth when

he says that defendant Ribbke refused to provide medical care to him because of prison grievances that he filed. Nothing in plaintiff's motion suggests that he is unable to do that.

Plaintiff complains that he does not know what to do, even though he read all the materials the court sent him. However, it is clear that plaintiff has *not* read everything. For example, he says that he does not know what a "motion in limine" is, but that issue is discussed in plain language in the trial preparation order the court sent plaintiff a few weeks ago. Sept. 12, 2016 Order, dkt. #80, at 8. Plaintiff should study and review that entire order carefully because it explains in some detail everything that plaintiff will need to do at trial. If plaintiff still has questions, he can ask the judge during the pretrial conference that will take place before trial begins on October 17, 2016.

Both plaintiff and his jailhouse lawyer (in a separate letter, dkt. #97) argue that counsel should be appointed for plaintiff because counsel for defendants lied when they stated that plaintiff had not filed a notice of claim. However, that issue has nothing to do with the question whether plaintiff is entitled to assistance in recruiting counsel. Even if the issues were related, neither plaintiff nor his jailhouse lawyer has shown that plaintiff was unfairly prejudiced by any conduct of defendants or their counsel. I dismissed some of plaintiff's state law claims in the screening order, not because of any representation by defendants, but because plaintiff failed to allege that he had complied with the state's notice of claims procedure. Dkt. #9 at 18. See also Weinberger v. State of Wisconsin, 105 F.3d 1182, 1188 (7th Cir. 1997) ("A complaint that fails to show compliance with [the notice of claim statute] fails to state a claim upon which relief can be granted."). Although I gave

plaintiff an opportunity to amend his complaint, he did not submit any additional allegations about that issue. Dkt. #21 at 2. It is not clear why plaintiff is now blaming defendants for the dismissal of some of his state law claims. In any event, nothing in plaintiff's motion or the letter submitted by his jailhouse lawyer shows that plaintiff is entitled to assistance in recruiting counsel now.

ORDER

IT IS ORDERED that plaintiff Arsenio Akins's motion for assistance in recruiting counsel, dkt. #96, is DENIED.

Entered this 4th day of October, 2016.

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