

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

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MONTELL M. HORTON,

Plaintiff,

ORDER

v.

02-C-0470-C

GERALD BERGE, PETER HUIBREGTSE,  
PAMELA BARTELS and LINDA HODDY-TRIPP,

Defendants.  
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This is a civil action for monetary, declaratory and injunctive relief. Plaintiff Montell M. Horton, an inmate at the Wisconsin Secure Program Facility (formerly Supermax Correctional Institution) in Boscobel, Wisconsin, has been allowed to proceed on the following claims: (1) that on October 26, 2001, defendants Peter Huibregste and John Doe denied plaintiff's advancement to level 4 in retaliation for grievances he had filed; (2) that defendant Pamela Bartels was deliberately indifferent to his serious medical needs when she refused to let him see an optometrist for over 21 days for his eye condition; (3) that defendant Berge's previous policy of 24-hour cell illumination and allowing noisy mentally ill inmates to be confined at Supermax caused him sleep deprivation; and (4) that the

combination of certain conditions of confinement imposed by defendant Berge (windowless cell; no contact with other prisoners; four hours of “so-called exercise” a week; limited use of library, exercise cell and telephone; visits by video; video monitoring; and the lack of any meaningful programming) caused him social isolation and sensory deprivation in violation of his Eighth Amendment rights.

Presently before the court is plaintiff’s motion for appointment of counsel. Although plaintiff has shown that he has contacted three lawyers to represent him, see Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992), his motion for appointment of counsel will be denied as premature. At this early stage of the litigation, it is unclear whether plaintiff’s case will be decided on the merits or, for instance, whether a threshold procedural issue such as exhaustion of administrative remedies will be decisive. Although plaintiff argues that this case is too complex for his legal knowledge, his complaint and the instant motion are entirely comprehensible and I am confident that he can adequately respond to threshold issues such as exhaustion. Accordingly, plaintiff’s motion for appointment of counsel will be denied. The denial, however, is without prejudice to plaintiff renewing his motion at a later date if the case proceeds to a decision on the merits.

ORDER

IT IS ORDERED that

1. Plaintiff Montell M. Horton's motion for appointment of counsel is DENIED without prejudice.

Entered this 9th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB  
District Judge