

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

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GREGORY PATMYTHES,

Plaintiff,

v.

CITY OF JANESVILLE,

Defendant.

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ORDER

04-C-367-C

This is a civil action in which plaintiff is proceeding pro se on his claims that his rights under the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and the Rehabilitation Act of 1973 were violated when defendant eliminated his job because of his cystic fibrosis. Presently before the court is plaintiff's “. . . Motion for Court to Compel,” which has been served on defense counsel. Because plaintiff is asking in his motion for an order compelling the University of Wisconsin Law School to provide pro bono services to him, I construe plaintiff's motion as a motion for appointment of counsel. The motion will be denied without prejudice.

First, this court does not have the authority to ask counsel to represent a party in a civil action where the party has not submitted evidence of his indigency. Plaintiff is not

proceeding in forma pauperis; he paid the fees for filing his complaint. Moreover, he has not submitted an affidavit of indigency in support of his motion that shows he qualifies for indigent status. In any event, plaintiff's motion for appointment of counsel must be denied as premature.

In addition to proving indigence, a party requesting appointed counsel must show that he had made reasonable efforts to find a lawyer on his own and was unsuccessful or that he was precluded effectively from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). Before the court will find that plaintiff has made reasonable efforts to secure counsel, he must provide the court with the names and addresses of at least three lawyers that he has asked to represent him and who have declined to take his case. Plaintiff has not done that.

Even if plaintiff were to make a showing that he is indigent and failed at three attempts to find a lawyer on his own, this court will not appoint counsel in civil actions except under extraordinary circumstances in which the determination has been made that the plaintiff is not competent to represent himself given the complexity of the case, and that the presence of counsel will make a difference in the outcome of his lawsuit. Zarnes v. Rhodes, 64 F.3d 285 (7th Cir. 1995), citing Farmer v. Haas, 990 F.2d 319, 322 (7th Cir. 1993). Although plaintiff insists that he is unskilled in the law and no match for defendant's lawyer, this is not an extraordinary circumstance warranting the appointment of counsel.

As Magistrate Judge Crocker already has advised plaintiff, most pro se litigants are similarly disadvantaged. In any event, this case is simply too new to permit the court to assess petitioner's abilities or the potential outcome of the lawsuit. Therefore, plaintiff's motion will be denied without prejudice to his renewing it at some later stage of the proceedings.

ORDER

IT IS ORDERED that plaintiff's motion for the appointment of counsel is DENIED without prejudice.

Entered this 31st day of January, 2005.

BY THE COURT:

BARBARA B. CRABB  
District Judge