

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

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DANIEL R. WILLIAMS,

Plaintiff,

v.

HELENE NELSON, Secretary, Wisconsin  
Department of Health and Family Services,  
STEVE WATTERS, Director, Sand Ridge  
Secure Treatment Center, DAVID THORTON,  
Treatment Director SRSTC, STEVE  
SCHNEIDER, Security Director SRSTC and  
DR. WILLIAM AEYTEY, Psychiatrist SRSTC,

Defendants.  
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ORDER

04-C-0774-C

In an order entered in this case on December 9, 2004, I granted plaintiff Daniel Williams leave to proceed in forma pauperis on his claims that all of the defendants are providing inadequate patient treatment in violation of the due process clause of the Fourteenth Amendment and Wis. Stat. § 51.61, and that defendant Watters is recording his outgoing telephone calls, including calls to his lawyers, in violation of the Fourth Amendment. In addition, I denied plaintiff's motion for appointment of counsel without prejudice to his renewing it at some later time in the proceedings. The complaint has been

served on the defendants and a preliminary pretrial conference is scheduled for tomorrow, February 2, 2005. Now plaintiff has renewed his motion for appointment of counsel. This second motion will be denied because it is still too early to make a determination whether counsel is warranted in this case.

In denying plaintiff's first motion for appointment of counsel, I told plaintiff that his case is too new to allow me to determine whether he is competent to prosecute his lawsuit himself and, if he is not, whether the appointment of counsel would make a difference in the outcome of the suit. In addition, I told plaintiff that before I could consider a renewed motion for appointment of counsel, he would have to make a showing that he made reasonable efforts to find counsel on his own and that his efforts failed. Now plaintiff has listed names of four lawyers he has asked to represent him. He admits that only two of the four have responded to his inquiries, and both of those lawyers declined to represent plaintiff.

Even if I agree that plaintiff's showing constitutes a reasonable effort to find a lawyer on his own, this case has not progressed sufficiently to allow me to determine the complexity of the issues and plaintiff's competence to prosecute his case.

Although it is understandable that plaintiff is concerned that he may not be able to litigate this case himself, he should know that he is in the same position as most other pro se litigants. In this court, persons who represent themselves are given an opportunity early

on in the lawsuit to ask questions they may have about court procedure. At the preliminary pretrial conference scheduled in this case, the United States Magistrate Judge will set a trial date and schedule deadlines for gathering evidence, naming witnesses and filing certain types of motions. Also, the magistrate judge will answer any questions about procedure that plaintiff has. In addition, he will send plaintiff written confirmation of the deadlines that are set and a written copy of various procedures discussed at the conference. Until that conference occurs and the parties receive written instructions on how the court expects them to proceed in this action, it is too early even for plaintiff to assess whether he believes himself capable of prosecuting this case on his own.

Accordingly, IT IS ORDERED that plaintiff's renewed motion for appointment of counsel is DENIED as premature.

Entered this 1st day of February, 2005.

BY THE COURT:

BARBARA B. CRABB  
District Judge