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

TIMOTHY SCOTT ACKERMANN,

Plaintiff,

ORDER

v.

04-C-845-C

JOHN POWERS,

Defendant.

The pending discovery dispute, coupled with collateral information of which the court has become aware, convinces me that the interests of justice require this court to seek an attorney to represent plaintiff and to strike the current calendar.

Plaintiff, who is proceeding pro se, has alleged that in January 1999, defendant, then a physician's assistant at the VA hospital in Tomah, sexually assaulted him during two appointments for treatment. Plaintiff has framed his allegations in hyperbolic terms (alleging in his complaint that defendant "litterly tryed tearing my member from me," and that blood was oozing out of his penis after defendant attempted oral sex), and he still suspects a vast VA conspiracy to cover up what happened. Such an approach triggers skepticism in an objective reader, but collateral facts change the calculus a bit: in April 1993, defendant was convicted in Milwaukee County of misdemeanor sexual contact with a ten year old boy. In 2002, the state charged defendant with third degree sexual assault in the Circuit Court for La Crosse County in Case No. 02-CF-258. The state alleged that on

March 25, 2002, plaintiff engaged in unconsented manual and oral stimulation of a VA patient's penis. On March 7, 2005, defendant resolved this prosecution by pleading no contest plea to a misdemeanor charge of fourth degree sexual assault. On March 16, 2005, the State of Wisconsin's Medical Examining Board revoked defendant's physician's assistant's license based on the same underlying conduct. State records also note that an October 2002 bail-jumping charge was read in at defendant's guilty plea and that a restraining order was entered against defendant.

Whether any of this information is admissible for any purpose in the instant federal civil lawsuit remains to be seen. At this juncture, the information is relevant because it provides sufficient context to plaintiff's similar allegations for this court to conclude that appointing an attorney to represent plaintiff might make a difference in the outcome of this case. The record reveals that plaintiff is not competent to represent himself effectively: he rarely manages to serve copies of his documents on defendant's attorney, he has failed to provide sufficient, timely responses to defendant's discovery requests, and he has completely blown his expert disclosures. As plaintiff acknowledged in his July 1, 2005 letter to the court, "I need help and I can't find any." This probably is as close to a request for appointment of counsel as plaintiff is capable of approaching, so I will accept it as such.

Pursuant to 28 U.S.C. § 1915(e), this court has discretion to ask attorneys to represent indigent litigants in appropriate circumstances. *See, e.g.,Gil v. Reed*, 381 F.3d 649, 656 (7th Cir. 2004). An attorney would remedy these problems and be more likely to secure

the just, speedy and inexpensive determination of this action required by Rule 1. Therefore, the court will attempt to find an attorney to represent plaintiff in this lawsuit. The current schedule is stricken and discovery will be stayed while the court searches for counsel. This moots defendant's pending discovery motion because essentially this case will be starting over once an attorney is on board to represent plaintiff.

ORDER

It is ORDERED that:

(1) Plaintiff's request for appointment of counsel is GRANTED;

(2) The calendar in this case is STRICKEN;

(3) Discovery is STAYED pending further order of the court; and

(4) Defendant's motion to compel discovery is DENIED as moot.

Entered this 1st day of August, 2005.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge