

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

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STEVEN D. STEWART,

Plaintiff,

ORDER

v.

05-C-293-C

C.O. BARR,

Defendant.  
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Plaintiff Steven Stewart has moved for the fifth time for appointment of counsel. According to plaintiff, he has once again become the victim of retaliatory conduct on the part of various prison officials because he filed this lawsuit. According to plaintiff, the retaliation this time takes the form of a prison guard breaking his elbow and “several guards [saying] they are going to kill [him].”

It is unclear why plaintiff believes that having appointed counsel to prosecute his remaining claim will cause an end to the retaliatory acts he thinks have been occurring since he filed his lawsuit. In August 2005, plaintiff complained that persons who are not parties to this action performed a strip search on him, temporarily placed him on back of cell restriction and denied him the use of a catheter in retaliation for his having brought this

lawsuit. He asserted that when he complained about his treatment, additional persons retaliated against him for those complaints. In January 2006, he complained that a host of individuals at the prison were retaliating against him for filing this lawsuit by taking his legal books and legal materials, refusing him medical treatment, placing him on “bogus” restrictions, writing “trumped up” conduct reports, demoting him five months in a row, taking his recreation and denying him use of the law library. (When the magistrate judge asked defense counsel to investigate plaintiff’s complaints of alleged interference with his ability to prosecute this action, counsel advised the court that plaintiff’s claims were unfounded.) On March 14, 2006, plaintiff contended that “6 or 7” guards beat him up, that his elbow was broken and that prison officials refused to take him to the hospital. Now, plaintiff believes that several guards will attempt to kill him.

Although plaintiff seems set in his belief that prison officials want to hurt him because he filed this lawsuit, it is highly unlikely that the unpleasant and negative incidents plaintiff may be experiencing are the result of retaliatory conduct. Moreover, plaintiff’s newest contention that prison officials want to kill him is wholly incredible.

With respect to plaintiff’s request for appointed counsel, as I have explained several times, I have no doubt that he can prosecute this case on his own. Following dismissal of most of plaintiff’s claims on defendants’ motion for summary judgment, this case is proceeding to trial against only one defendant and on only one question: whether defendant

Barr maliciously confiscated plaintiff's pain medication on January 13, 2005, in violation of the Eighth Amendment. Plaintiff has been fully engaged in prosecuting his case thus far. He responded appropriately to defendants' motion for summary judgment and has undertaken discovery. There is no reason to believe that he will not be able to prepare his case for trial and present his claim adequately.

ORDER

IT IS ORDERED that plaintiff Steven Stewart's fifth motion for appointment of counsel is DENIED.

Entered this 14th day of April, 2006.

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