

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

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JOSE BORRERO,

Plaintiff,

v.

ROBERT BREVARD, BARBARA
RIPANI and ANN SEMROW,

Defendants.

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ORDER

05-C-418-C

On August 19, 2005, I granted plaintiff leave to proceed in forma pauperis in this case on his claim that defendants violated his Eighth Amendment rights by refusing to respond to his serious dental health care needs. At the time he filed his complaint, plaintiff moved for appointment of counsel. That motion will be denied as premature.

The Court of Appeals for the Seventh Circuit has held that before a district court can consider a motion for appointment of counsel made by an indigent plaintiff in a civil action, it must first find that the plaintiff made reasonable efforts to find a lawyer on his own and was unsuccessful or was prevented from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). To show that he has made reasonable efforts to find a

lawyer, plaintiff must submit the names and addresses of at least three lawyers that he asked to represent him and who turned him down. Plaintiff does not suggest that he has complied with this preliminary step. If plaintiff wishes, he can obtain the names of lawyers in the Western District of Wisconsin whose practices include prisoner litigation or Eighth Amendment cases by contacting the Wisconsin State Bar Lawyer Referral and Information Service at P.O. Box 7158, Madison, Wisconsin, 53707, 1-800-362-8096.

Plaintiff should be aware that even if he is unsuccessful in finding a lawyer on his own, that does not mean that one will be appointed for him. At that point, this court must consider whether plaintiff is able to represent himself given the legal difficulty of the case, and if he is not, whether having a lawyer would 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)). Plaintiff does not contend that he has difficulty reading or writing or understanding court instructions or direction. He states only that he has limited access to a law library while he is in segregation status. However, plaintiff's ability to gain access to a law library is not crucial in these proceedings. The law governing plaintiff's claim was established long ago and is described in detail in the order granting plaintiff leave to proceed on his Eighth Amendment claim. Additional legal precedent is unnecessary.

In summary, because plaintiff has not searched for a lawyer on his own and because this case is too new to allow the court to evaluate plaintiff's abilities or the likely outcome

of the lawsuit, plaintiff's motion for the appointment of counsel will be denied without prejudice to his renewing his request at a later time.

ORDER

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

Entered this 25th day of October, 2005.

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