

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

RAYMOND BRESSETTE, #217468,

Plaintiff,

v.

OFFICER STEVE KNUDSEN,
SHERIFF ROBERT FOLLIS and
LARRY WEBER,

Defendants.

ORDER

06-C-280-C

Plaintiff Raymond Bresette has filed a motion for appointment of counsel. He states that he is having difficulty understanding and following this court's orders and that the inmate who has been helping him is presently in segregation. Plaintiff's request will be denied for two reasons.

First, before I can consider whether counsel should be appointed to represent a pro se litigant, I must find that the litigant has made reasonable efforts to retain counsel 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). Plaintiff does not suggest that he has made any effort to find a lawyer on his own. Ordinarily, before the court will find that a

litigant has made reasonable efforts to secure counsel it requires the litigant to provide the names and addresses of at least three lawyers that he has asked to represent him and who have declined to take the case.

Second, in order to find that a pro se litigant requires appointed counsel, I must find that the litigant is not competent to represent himself given the complexity of the case and that the presence of counsel 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). Most pro se litigants are unskilled in the law and have little understanding of court proceedings. However, in this court, persons representing themselves are provided with procedures that have been written with them in mind. Plaintiff does not identify any particular court order or procedure he has been unable to follow because of his lack of legal expertise and the record does not reveal any failure to respond on his part. He appears to be a highly competent writer and does not profess to have difficulty reading.

Plaintiff's case is not complex. Even if it was, it is highly unlikely that having a lawyer would make a difference in the outcome of the case. Plaintiff contends that defendants arrested and held him without probable cause. Although he has not yet responded to defendants' proposed findings of fact in support of their motion for summary judgment, it is hard to imagine what evidence plaintiff would be able to garner with a lawyer's assistance that he cannot obtain on his own that would be sufficient to put defendants' proposed

material facts into dispute. It is not likely that plaintiff will dispute that he was subject to bonds conditioned on his absolute sobriety and issued by the Bayfield and Ashland County circuit courts for felony Operating While Intoxicated offenses. Furthermore, plaintiff is not in a favorable position to argue that defendant Krewson (who plaintiff identifies in his complaint as defendant Steve Knudsen) did not observe what he avers he observed or smell what he avers he smelled when he approached plaintiff on October 9 or 10, 2005. The law governing plaintiff's Fourth Amendment claim is relatively straightforward. Plaintiff's arrest will be found to be legal if defendant Krewson had probable cause to believe that plaintiff was violating the conditions of his bond. Plaintiff does not need to engage in intense study of the law in order to prosecute his claim. His ability to succeed will rest entirely upon the facts disclosed on a motion for summary judgment or at trial. Although plaintiff cannot know what defendant Krewson saw or smelled, he has personal knowledge of the incident and the circumstances leading to his arrest. In other words, if there are facts that draw into question what defendant Krewson says prompted him to arrest plaintiff, plaintiff should be able to present those facts to this court in response to defendants' proposed findings of fact.

Because I am convinced that plaintiff has the ability to prosecute a case of minor complexity such as this, his motion for appointment of counsel will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for the appointment of counsel is DENIED.

Entered this 25th day of October, 2006.

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