

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

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CARLA ZASTROW and  
REBECCA BOE,

Plaintiffs,

v.

LARRY TAFT, in his individual  
capacity,

Defendant.

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ORDER

06-C-499-C

Plaintiffs Carla Zastrow and Rebecca Boe have filed this action under 42 U.S.C. § 1983 and state law alleging that defendant Larry Taft, a probation and parole agent with the State of Wisconsin Department of Corrections, sexually assaulted plaintiffs while they were subject to defendant's supervision. Although plaintiffs have not yet filed proof of service of the complaint upon defendant, they have written the court to advise that on November 17, 2006, a representative of the Marathon County Sheriff's Department telephoned the office of plaintiffs' counsel and advised him that defendant had been served with a summons and complaint. Now, defendant has submitted three letters to the court, two of which are dated November 29, 2006 and one of which is undated. In the undated letter, defendant asks the

court to appoint counsel to represent him. He states that he has limited financial resources and has been advised that the state will not represent him in this action. In one of the letters dated November 29, defendant states that he is denying all allegations asserted against him in plaintiffs' complaint. In the other letter, he advises plaintiffs' lawyer that the state has declined to represent him.

As an initial matter, I note that defendant does not show on his letter requesting the appointment of counsel that he has served a copy of this communication on plaintiffs' lawyer. Therefore, I am sending a copy of defendant's submission to Mr. Olson with a copy of this order. In the future, however, defendant should be aware that it is his responsibility to send to Mr. Olson a copy of every letter, legal argument, or other paper he sends to the court in connection with this case and to show clearly on the court's copy that he has done so. Fed. R. Civ. P. 5. If it does not appear that defendant has served opposing counsel with a particular communication to this court, the court will give no consideration to it.

Second, defendant should be aware that he is to put his case number and a caption on his submissions relating to this case so that the clerk of court knows in which of the several hundred cases filed annually in this court defendant wishes his submissions considered. Fed. R. Civ. P. 7 and 10. While he is representing himself, defendant must comply with the Federal Rules of Civil Procedure, which are available online at <http://www.law.cornell.edu/rules/frcp/> or in hard copy at most public libraries.

Turning first to defendant's request for appointed counsel, I construe his letter as a motion for appointment of counsel and will deny it as premature. Defendant has not submitted an affidavit of indigency showing that he qualifies financially for appointed counsel. It is not enough that defendant believes himself to lack the financial resources to hire a lawyer to defend him in this case. He must complete the enclosed affidavit of indigency and return it to the court so that a determination can be made whether he qualifies for indigent status.

Second, the court cannot consider whether defendant qualifies for appointed counsel unless he first makes a showing that he has made reasonable efforts to find a lawyer on his own and has been unsuccessful. In this court, litigants may make the showing by submitting copies of letters from three lawyers who defendant has asked to represent him but who have declined to do so.

With respect to defendant's November 29 letter denying all allegations in plaintiffs' complaint, I construe the submission as defendant's answer to the complaint and it will be docketed as such. The next step is for the clerk of court to set this case for a preliminary pretrial conference before the United States Magistrate Judge so that the parties can agree to a trial date and deadlines that will assist in bringing this case to resolution, such as for conducting discovery and filing dispositive motions.

ORDER

IT IS ORDERED that defendant's motion for appointment of counsel is DENIED as premature.

Further, IT IS ORDERED that defendant's November 29, 2006 letter addressed to the office of the clerk is construed as defendant's answer to plaintiffs' complaint. The Clerk of Court is requested to set this case for a preliminary pretrial conference before United States Magistrate Judge Stephen Crocker as promptly as possible.

Entered this 5th day of December, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge