

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

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MARK D. MARSHALL,

Plaintiff,

v.

JANEL NICKEL; SEAN SALTER;  
GREG GRAMS, Warden at CCI;  
C/O JAMES; C/O T. BITTELMAN;  
C/O NEUMAIER, Medical Doctor SULIENE;  
ICE MARY LEISER; ICE BURT TAMMINGA;  
RN. NANCY HAHNISCH; LT. LIPINSKI;  
RN. SUE WARD; RN. LINDY MUCHOW;  
2nd Shift SGT. FINK; RN. KIM CAMBELL;  
MIKE VANDENBROOK; JANET WALSH; and  
Psychiatrist DANA DIEDRICH,

Defendants.  
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ORDER

06-C-617-C

In this civil action for monetary relief brought under 42 U.S.C. § 1983, plaintiff Mark Marshall contends that defendants, who are or were prison officials at the Columbia Correctional Institution in Portage, Wisconsin, violated his constitutional rights in a variety of ways while he was incarcerated at the institution. Plaintiff is presently housed at the Waupun Correctional Institution in Waupun, Wisconsin.

Now before the court is plaintiff's second request that counsel be appointed to represent him in this case. Before the court can appoint counsel in a civil action such as this, it must find first that the plaintiff made a reasonable effort to retain counsel and was unsuccessful or that he was prevented from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). In this court, a plaintiff must list the names and addresses of at least three lawyers who declined to represent him before the court will find that he made reasonable efforts to secure counsel on his own. Plaintiff attached to his motion letters from three law firms declining to represent him in this action. Therefore, he has made reasonable efforts to retain counsel on his own.

Second, the court must consider whether the plaintiff is competent to represent himself given the complexity of the case, and if he is not, whether 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)). This case is in its early stages and it is difficult to evaluate its scope or complexity. Plaintiff states that he has "mental health defect" that makes it difficult for him to competently pursue this lawsuit, which involves numerous, unrelated incidents. Some of plaintiff's claims are complex, while others present relatively straightforward questions. If plaintiff did not file inmate complaints concerning some of the claims, it is unlikely that those claims will survive a motion to dismiss for failure to exhaust administrative remedies, which could change the scope of the

case significantly. At this early stage of the proceedings, plaintiff's request for appointment of counsel will be denied without prejudice to his renewing it at a later stage.

ORDER

\_\_\_\_\_ IT IS ORDERED that plaintiff Mark Marshall's motion for appointment of counsel is DENIED without prejudice to his renewing it at some later stage of the proceedings.

Entered this 4<sup>th</sup> day of April, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge