

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

GORDAN BATES,

Plaintiff,

v.

ORDER

08-cv-465-slc

STATE OF WISCONSIN - DEPARTMENT
OF WORKFORCE DEVELOPMENT,
STATE OF WISCONSIN - VOCATIONAL
REHABILITATION, ALLIANCE OF IMPARTIAL
HEARING OFFICERS, LESLIE MIRKIN,
MICHAEL GRECO, KAREN LAMBRIGHT,
LINDA VEGOE, MICHAEL SCHNAPP,
DEB HENDERSON-GUETHER, DAVID
BECKER and CLIENT ASSISTANCE PROGRAM,

Defendants.

On August 21, 2008, this court granted plaintiff Gordan Bates leave to proceed *in forma pauperis* on claims under Title II of the Americans with Disabilities Act and under Wisconsin's fraudulent representation statute, Wis. Stat. § 100.18, against the above-captioned defendants. Now plaintiff has filed a motion for appointment of counsel.

In deciding whether to appoint counsel, I must find first that plaintiff has made reasonable efforts to find a lawyer on his own and has been unsuccessful or that he has been prevented from making such efforts. *Jackson v. County of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992). To show that he has made reasonable efforts to find a lawyer, plaintiff must give the court the names and addresses of at least three lawyers who he has asked to represent him in this case and who turned him down. Plaintiff has not met this prerequisite, and therefore I will deny his motion for appointment of counsel.

However, even had plaintiff provided the names and addresses of three lawyers, I would still deny his motion because he fails to adequately explain why he needs an lawyer. In making this determination, I must consider both the complexity of the case and the plaintiff's ability to

litigate it himself. *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007). In his motion, plaintiff argues that he will not be able to take necessary depositions in the case because of “conflicts of interest” between he and defendants, “business connections” between defendants and some witnesses, a lack of available resources, and his disabilities and speech impairment. Unfortunately, plaintiff fails to provide specifics regarding how any of these impediments affect his ability to litigate the case. Some of these impediments appear unlikely to weigh in favor of appointing counsel. It goes without saying that “conflicts of interest” between opposing parties occur in every case on the basis of their adversarial relationship. Similarly, it is exceedingly common for there to be “business connections” between defendants and witnesses or for a pro se plaintiff to lack significant financial resources.

Other impediments listed by plaintiff are more likely to weigh in favor of appointment of counsel; it is possible that plaintiff has disabilities or a speech impediment that would render him unable to prosecute his case, but he provides no details about what problems he has and why they affect his ability to litigate this action. Without a more thorough explanation by plaintiff as to why he needs counsel in order to litigate this case, I must deny his motion.

Finally, from other documents submitted by both parties, it appears that plaintiff sent out notices of depositions for two witnesses, but then failed to appear at the deposition. This was preceded by plaintiff filing other discovery materials in this court. Plaintiff should take heed of two points discussed in the preliminary pretrial conference order issued October 7, 2008, in this case. First, the parties generally should not file their discovery material with the court, except to support some other matter in this lawsuit, such as a summary judgment motion.

Second, plaintiff should study Rules 26 through 37 of the Federal Rules of Civil Procedure in order to properly carry out discovery in this case.

ORDER

It is ORDERED that plaintiff's motion for appointment of counsel (dkt. #30) is DENIED.

Entered this 12th day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge