

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

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JAMES D. SUNDLY,

Plaintiff,

ORDER

v.

DEP. J. WILSON., DEP. MARKGRAF  
DEP. SEELEY, DEP. MILLER, DEP.  
KOWALSKI, and DEP. PIERCE

08-cv-506-slc

Defendants.

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In this case plaintiff was allowed to proceed *in forma pauperis* on his claim that defendants Wilson, Markgraf, Miller and Seeley used excessive force against him and that defendants Porter, Kowalski and Pierce failed to provide him with appropriate medical care after he broke his finger.

Now plaintiff has filed a motion for appointment of counsel. In deciding whether to appoint counsel, I must first find 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 (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 complied with this requirement.

In resolving a motion for appointment of counsel, a district court must consider both the complexity of the case and the pro se plaintiff's ability to litigate it himself. Pruitt v.

Mote, 503 F.3d 647, 654-55 (7th Cir. 2007). First, I cannot find at this time that plaintiff has shown he has any limitations that would interfere with his ability to represent himself in this matter. In his motion, plaintiff says he has no legal training, no legal education and no understanding of the law. These are not good reasons to appoint counsel because these handicaps are universal among pro se litigants. To help plaintiff in this regard, however, plaintiff was instructed at the December 5, 2008 preliminary pretrial conference about how to use discovery techniques available to all litigants so that he can gather the evidence he needs to prove his claim. In addition, he was provided a copy of this court's procedures for filing or opposing dispositive motions and for calling witnesses, both of which were written for the very purpose of helping pro se litigants understand how these matters work.

With respect to the complexity of the case, there is nothing in the record to suggest that this case is factually or legally difficult. Plaintiff's claims are straightforward Eighth Amendment claims that defendants Wilson, Markgraf, Miller and Seeley used excessive force against him and that defendants Porter Kowalski and Pierce refused to provide him appropriate medical treatment after he broke his finger. The law governing claims of excessive force and the denial of medical care is straightforward and was explained to plaintiff in the order entered in this case on October 2, 2008. Furthermore, plaintiff has personal knowledge of the circumstances surrounding the use of excessive force against him and the lack of treatment for his broken finger and he should already possess or be able to

obtain through discovery relevant documentation he needs to prove his claims. In sum, at this time I can conceive of no reason why plaintiff cannot prosecute these claims on his own.

ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel, dkt. #32, is DENIED.

Entered this 11<sup>th</sup> day of December, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge