

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

MARLON J. POWELL,

Plaintiff,

v.

MARIO GARCIA and JOHN SAMUELSON,

Defendants.

MEMORANDUM

10-cv-202-bbc

Plaintiff Marlon J. Powell is proceeding in this case on a claim that defendants Mario Garcia and John C. Samuelson violated his First Amendment right to free exercise of his religion and violated the Religious Land Use and Institutionalized Persons Act by preventing plaintiff from receiving meal bags during Ramadan in 2009. In an August 18, 2010 order, I denied plaintiff's motion for appointment of counsel but stated that he could renew his motion later. Now plaintiff has submitted a letter asking a couple of questions about how he might proceed with a future motion for appointment of counsel:

Plaintiff asks whether he will have to resubmit the letters he has already submitted showing that he has asked three lawyers to represent him and they turned him down. No. Those letters remain part of the docket so plaintiff will not have to resubmit them.

Plaintiff asks when he should submit his next motion for appointment of counsel (he adds that he does "not wish to file the same motion over and over, as I know the judge wouldn't like that too much.") I cannot provide advice to parties about such matters, and in any event the answer would be "it depends." When a judge considers such motions, he or she must consider the complexity of the lawsuit and the pro se plaintiff's ability to handle it himself. *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007). Because we have so few attorneys

available to take our prisoner lawsuits, this court can appoint counsel only in rare instances, and only when it is persuaded that a plaintiff's case is so complex or his skills so lacking that appointment of counsel is necessary. Moreover, contrary to plaintiff's belief that "[i]t is now very clear that I will be going to trial," it is still very early in the proceedings and it is too early to determine whether a trial will be necessary. Plaintiff should wait to file another motion for appointment of counsel until he is prepared to explain in detail how and why he is unable to litigate his case by himself without assistance from a lawyer.

Entered this 13th day of October, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge