

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

SYLVESTER JACKSON,

Plaintiff,

v.

RANDALL R. HEPP and RICK RAEMISCH,

Defendants.

ORDER

11-cv-136-slc

In this case, plaintiff Sylvester Jackson is proceeding on a claim that defendants Randall Hepp and Rick Raemisch violated his First Amendment right to inmate-to-inmate legal correspondence. Briefing on defendants' motion for summary judgment has been stayed while the parties briefed plaintiff's motion to stay the case because his January 2012 request for a legal loan was denied. The parties' submissions show that plaintiff has been approved for a new legal loan, so his motion to stay the case will be denied as moot.

In the meantime, plaintiff has filed a motion for appointment of counsel. Before deciding whether to appoint counsel, I must 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). Plaintiff has informed the court that he has attempted to retain several attorneys but failed.

Next, I 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). I conclude that this case, involving the application of *Turner v. Safely*, 482 U.S. 78 (1987), to the alleged restrictions on inmate-to-inmate legal correspondence, will be too complex for plaintiff to litigate himself, particularly seeing as he may need to conduct discovery into the transfer policies of other DOC prisons, and it is unclear whether plaintiff would even be allowed to see various transfer data or policies for security reasons. Accordingly, I will stay proceedings in this case while taking steps to locate a lawyer who is willing to represent plaintiff. This might take a while, so plaintiff should be patient.

A lawyer accepting appointment in a case like this one takes it with no guarantee of compensation for his or her work. Plaintiff should be aware that in any case in which a party is represented by a lawyer, the court communicates only with the lawyer. Thus, once counsel is appointed, the court no longer will communicate with plaintiff directly about this case. Plaintiff will have to communicate directly with his lawyer about any concerns and allow the lawyer to exercise his or her professional judgment to determine which matters to bring to the court's attention and what motions and other documents are appropriate to file. Plaintiff will not have the right to require counsel to raise frivolous arguments or to follow every directive he makes. He should be prepared to accept his lawyer's strategic decisions even if he disagrees with some of them, and he should understand that it is unlikely that this court will appoint another lawyer to represent him should plaintiff choose not to work cooperatively with the first appointed lawyer.

ORDER

It is ORDERED that:

(1) Plaintiff Sylvester Jackson's motion to stay the case, dkt. 29, is DENIED as moot.

(2) Plaintiff's motion for appointment of counsel, dkt. 44, is GRANTED. Further proceedings in this case are STAYED pending appointment of counsel for plaintiff, and the July 9, 2012 trial date is STRICKEN. Once the court finds counsel willing to represent plaintiff, the court will advise the parties and hold a status and scheduling conference.

Entered this 11th day of May, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge