

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

ROY MITCHELL,

Plaintiff,

v.

SHERIFF SERGEANT MR. PAT PRICE,
SERGEANT KOEHLER, OFFICER AGUIRE,
JAMES WILSON, NATHAN JOHNSON, and
DANIEL WERKHERSE,

Defendants.

ORDER

11-cv-260-wmc

Plaintiff Roy Mitchell is proceeding in this case on her¹ claims that defendants Koehler, Price, Aguire, Johnson, Werkherse and Wilson violated her equal protection rights because of plaintiff's transgender lifestyle, that defendant Wilson used excessive force against plaintiff and that defendant Koehler defamed plaintiff by labeling her as a "Hermaphrodite." Now before the court are plaintiff's motion to compel discovery, motion for appointment of counsel and motion to postpone the deposition pending appointment of counsel. Dkts. 36, 45 and 46.

In her May 7, 2012 motion to compel, plaintiff seeks defendants' response to her March 22, 2012, discovery requests, which defendants did not timely provide until plaintiff filed the current motion. *See* dkt. 37. Defendants' counsel is aware of the 30-day limit to answer discovery requests. Defendants gave no reason for their delay in answering plaintiff's discovery requests, and filed responses to those requests instead of a brief in opposition to the instant motion. Although this delay did not tilt the playing field in this case, if defendants miss another discovery deadline without good cause, then sanctions under Rule 37(b) are a possibility.

¹ At plaintiff's request, the court will refer to plaintiff using female pronouns.

To the extent that defendants did not turn over every document plaintiff requested, it appears that plaintiff's request was overly broad with regard to request No. 11, in which she requests a copy of all the grievances filed against defendants over the last five years, particularly those related to excessive force or abuse. Defendants note that plaintiff is not currently proceeding with excessive force claims against all of the defendants. In any case, plaintiff is not entitled to confidential medical or security information contained in those grievances, nor is there any reason to turn over every grievance, no matter the subject. Plaintiff is free to file follow-up requests to produce summaries of *relevant* grievances, focused on specific defendants and the claims asserted against each.

As for requests No. 7 ("log" recording books) and 9 (Equal Opportunity Office documents), defendants state that they do not have these documents. These answers suffice.

In a letter dated May 17, 2012, *see* dkt. 41, plaintiff complains that although defendants have produced most of the documents she has sought through discovery, defendants sent plaintiff a bill for the photocopies. As I explained to plaintiff in pretrial order, Rule 34 allows plaintiff to ask the defendants to show her the documents that are relevant to this case, but there is no requirement in the Federal Rules of Civil Procedure, or in this court's local rules, that require defendants to make free photocopies for the plaintiff, even if the plaintiff is indigent. Accordingly, at this time there is no reason to bar defendants for seeking reimbursement for their costs in providing plaintiff with copies.

Turning to plaintiff's latest motion for appointment of counsel, plaintiff asks that counsel be appointed because plaintiff is an indigent and inexperienced litigator, this case is too complex for her, and it requires significant research and investigation. As this court already has

explained, it would appoint a lawyer to almost every pro se plaintiff if lawyers were available to take these cases, but they are not. Most lawyers do not have the time, the background or the desire to represent pro se plaintiffs in a pro bono capacity, and this court cannot make them. So the court only appoints counsel in cases where there is a demonstrated need, using the appropriate legal test. *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007).

Plaintiff has submitted no new information which persuades the court to reach a different decision that it did in its March 6, 2012 order denying plaintiff's second motion for appointment of counsel. With respect to the complexity of the case, there is nothing in the record to suggest that this case is factually or legally difficult. The law governing plaintiff's claims was explained to her in the January 20, 2012 order granting her leave to proceed. Plaintiff has personal knowledge of the circumstances surrounding the events and she has been conducting discovery. Furthermore, plaintiff's submissions to this court have been appropriately directed and articulate. Thus far, nothing in the record suggests that plaintiff's case is so complex or her skills so lacking that plaintiff will be unable to prosecute her case adequately. If at some point plaintiff does not understand something that is happening in this case, she is free to write to the court to ask for clarification. Plaintiff is free to renew her motion at a later date.

Finally, because plaintiff did appear for her deposition scheduled for May 31, 2012, her request to postpone that deposition is denied as moot.

ORDER

It is ORDERED that:

- (1) Plaintiff Roy Mitchell's 's motion to compel, dkt. 36, is DENIED.
- (2) Plaintiff's motion to appoint counsel, dkt. 45, is DENIED without prejudice.
- (3) Plaintiff's motion to postpone her deposition, dkt. 46, is DENIED as moot.

Entered this 13th day of June, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge