

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

MARK ANTHONY OTT,

Plaintiff,

v.

STATE OF WISCONSIN DEPARTMENT
OF CORRECTIONS EMPLOYEES,

Defendant.

ORDER

11-cv-382-slc¹

Plaintiff Mark Ott has filed a proposed amended complaint as directed by this court in orders dated August 10, 2011 and July 15, 2011. Dkt. ##5, 7 and 8. In addition, he has renewed his motion to stay the case until he is released from prison “so that [he] can obtain counsel.” Dkt. #9. I am denying the motion for a stay, but will refrain from screening the proposed amended complaint until plaintiff informs the court whether he wishes to proceed.

Plaintiff has not identified a persuasive reason for staying the case. It was plaintiff’s decision to file this lawsuit when he did and he has not explained why he wishes to wait to seek legal representation until after he is released from prison. To the extent plaintiff’s

¹ I am exercising jurisdiction over this case for the purpose of this order.

motion could be construed as a motion for appointment of counsel, I could not grant the motion because he has not shown that he has asked at least three lawyers to represent him or that the case is too complex for him to litigate on his own. Pruitt v. Mote, 503 F.3d 647, 658 (7th Cir. 2007).

If plaintiff does not wish to proceed without a lawyer, that is his choice, but his only option is to voluntarily dismiss the case. Because his complaint has not been served, he would be free to file a new lawsuit in the future. However, he would have to continue paying the filing fee in this case in installments and he would be subject to a new filing fee for any new case that he filed.

There is little point in screening the complaint to determine whether it states a claim upon which relief may be granted unless plaintiff wishes to proceed with the case now. Accordingly, I will give plaintiff an opportunity to tell the court in writing what he wants to do.

ORDER

IT IS ORDERED that

1. Plaintiff Mark Ott's motion to stay the case, dkt, #9, is DENIED.
2. Plaintiff may have until September 22, 2011 to inform the court in writing whether he wishes to (1) proceed with the case on his own or (2) dismiss his case voluntarily

without prejudice to his refiling it at a later date.

3. If plaintiff chooses to proceed with the lawsuit, I will screen his proposed amended complaint in accordance with 28 U.S.C. §§ 1915 and 1915A.

4. If plaintiff does not respond by September 22, 2011, I will dismiss the case.

Entered this 7th day of September, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge