

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

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SYLVESTER JACKSON,

Plaintiff,

v.

RANDALL HEPP, GARY H. HAMBLIN,  
TAMMY MAASSEN, KENNETH ADLER,  
DEBRA TIDQUIST, CARLA GRIGGS,  
GEORGIA KOSTOHRYZ, GREG MEIER,  
CHERYL MARSOLEK, BETTY PETTERSON,  
SGT. CLARK and JODI DOUGHERTY,

Defendants.

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ORDER

11-cv-774-bbc

Plaintiff Sylvester Jackson is proceeding on claims that defendants violated his rights under the Eighth Amendment by failing to treat his chronic back pain and complications that arose after he had surgery on his toes. Plaintiff recently filed a renewed motion for appointment of counsel in which he states that he does not have the ability to litigate this case because he is battling with memory loss and that he has been placed anti-depressant and “psych medication.” In addition, plaintiff says that he has no litigation knowledge and the inmate who was helping him previously has been sent to segregation.

Plaintiff’s concerns about his legal skill are shared by all persons who file cases without the assistance of a lawyer. Although plaintiff admits that he has received assistance from another inmate in preparing his filings, plaintiff’s temporary separation from his jailhouse lawyer is not an exceptional circumstances warranting appointment of counsel. Although plaintiff reports that he has mental health issues, plaintiff’s submissions have been coherent and well written and they demonstrate that he is able to understand and follow court instructions.

As I explained in the June 26, 2012 order denying plaintiff's initial motions for appointment of counsel, there is nothing in the record yet to suggest that plaintiff is incapable of gathering and presenting evidence to prove his claims. Plaintiff claims that the defendants were deliberately indifferent to his serious medical needs. Although it is true that prisoner cases raising Eighth Amendment claims of denial of medical care almost always present "tricky issues of state of mind and medical causation," *Hudson v. McHugh*, 148 F.3d 859, 862, n.1 (7<sup>th</sup> Cir. 1998), this is not sufficient reason by itself to find that plaintiff's case presents exceptional circumstances warranting appointment of counsel.

Plaintiff is not expected to provide the court with extensive legal research in support of his claims. Instead, his role is to present the facts about which he has personal knowledge, that is, how he was harmed and the facts relating to defendants' personal knowledge of plaintiff's medical conditions and their treatment, or lack of treatment, to plaintiff's condition. Plaintiff can explain what he felt, saw and heard based on his first hand knowledge, and he should already possess or should be able to obtain through simple document requests or simple written questions ("interrogatories") any follow-up information he needs about his medical care. To do this, it might be helpful for plaintiff to re-read the June 6, 2012 pretrial conference order carefully and do the best he can to follow the steps explained in the order to gather any additional evidence he thinks he might need. If at some point plaintiff does not understand something that is happening in this case, he is free to write to the court to ask questions about court procedures that the court will do its best to answer. As this case progresses, it might become clear that appointment of counsel is required, but this is not clear right now, so for now I will deny plaintiff's motion. Plaintiff is free to renew his motion at a later date.

Accordingly, IT IS ORDERED that plaintiff Sylvester Jackson's motion for appointment of counsel, dkt. 58, is DENIED WITHOUT PREJUDICE.

Entered this 26<sup>th</sup> day of November, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge