

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

MICHAEL ANTHONY WRIGHT, SR.,

Plaintiff,

v.

CHARLES BAYTON, SCOTT HOFFIEZER and
BETH DITTMAN,

Defendants.

ORDER

12-cv-870-bbc

Plaintiff, a prisoner presently confined at the Dodge Correctional Institution in Waupun, Wisconsin, is proceeding in this case on his claim that defendants refused to provide treatment for his hepatitis C, in violation of his rights under the Eighth Amendment. Currently before the court is plaintiff's motion for assistance in finding counsel to represent him in his case.

As a starting point, this court would recruit a lawyer for 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 recruits counsel in cases where there is a demonstrated need, using the appropriate legal test.

In deciding whether to assist plaintiff, I must first find that plaintiff has made a reasonable effort to find a lawyer on his own and has been unsuccessful or that he has been prevented from making such an effort. *Jackson v. County of McLean*, 953 F.2d 1070 (7th Cir. 1992). To prove that he has made a reasonable effort to find a lawyer, plaintiff must give the court the names and addresses of at least three lawyers that he asked to represent him on the issues on which he has been allowed to proceed and who turned him down. Plaintiff has not met this requirement.

The next question is whether plaintiff meets the legal standard for appointment of counsel. Litigants in civil cases do not have a constitutional right to a lawyer; federal judges have discretion to determine whether appointment of counsel is appropriate in a particular case. *Pruitt v. Mote*, 503 F.3d 647, 654, 656 (7th Cir. 2007). They exercise that discretion by determining from the record whether the legal and factual difficulty of the case exceeds the plaintiff's demonstrated ability to prosecute it. *Id.* at 655.

In his motion, plaintiff says that the issues in this case are complex and will require research and investigation. Regarding plaintiff's concern with the complexity of this case, the law governing plaintiff's claim is straightforward and was explained to him in the order granting him leave to proceed. As for plaintiff's concern with conducting research and investigation, he is advised that his case hinges on the facts. Plaintiff has personal knowledge of the incidents surrounding his claims and the treatment he did or did not get. He should be able to obtain access to his own medical records to corroborate this information. In addition, in the March 15, 2013 pretrial conference order, plaintiff was provided a copy of the procedures to use to prove his claims, which were written for the very purpose of helping pro se litigants understand how federal civil cases work in this court. I urge plaintiff to thoroughly re-read the March 15 pretrial conference order.

Finally, there is no way of knowing yet if plaintiff's case will go to trial. Many cases are resolved before trial, either on dispositive motions or through settlement. If the case does go to trial, the court will issue an order about two months before the trial date describing how the court conducts a trial and explaining to the parties what written materials they are to submit before trial.

In sum, plaintiff has not shown that he requires the assistance of counsel at this stage in the proceedings. Therefore, plaintiff's motion for assistance in the recruitment of counsel will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for assistance in the recruitment of counsel, dkt. 12, is DENIED without prejudice.

Entered this 8th day of August, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge