

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

L.C. GRAVES,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER

13-cv-131-bbc

On February 25, 2013, L.C. Graves filed a motion for return of property under Fed. R. Crim. P. 41(g), in his criminal case, 07-cr-165-bbc, alleging that currency and jewelry were taken from him and only a portion of the cash and jewelry has been returned. Because his criminal case was closed, I informed Mr. Graves that he could proceed only by way of a civil equitable proceeding. United States v. Shaaban, 602 F.3d 877, 878-89 (7th Cir. 2010) (“We have held that, once a defendant has been convicted, a motion under Rule 41(g) is deemed to initiate a *civil* equitable proceeding”) ((citing United States v. Howell, 354 F.3d 693, 695 (7th Cir. 2004))), for which defendant must pay a filing fee. He paid the filing fee and this civil proceeding was initiated. The court then set a briefing schedule on his motion. After obtaining a brief extension, the government filed its response brief. Plaintiff’s reply

brief was due on June 3, 2013.

On June 6, 2013, plaintiff filed a motion for appointment of counsel and a document titled “Partial Reply Brief.” In his motion, plaintiff asks that the court appoint counsel to represent him and to accept his partial reply brief until counsel can be appointed to represent him.

In deciding whether to appoint counsel, I must first 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 does not say that he has been prevented from trying to find a lawyer on his own. To prove that he has made reasonable efforts to find a lawyer, plaintiff must give the court the names and addresses of at least three lawyers that he asked to represent him in this case and who turned him down.

Plaintiff should be aware that even if he is unsuccessful in finding a lawyer on his own, that does not mean that the court will recruit one to represent him. At that point, the court must consider “whether the difficulty of the case—factually and legally—exceeds the particular plaintiff’s capacity as a layperson to coherently present it to the judge or jury himself.” Pruitt v. Mote, 503 F.3d 647, 655 (7th Cir. 2007). This case is simply too new to allow the court to evaluate plaintiff’s abilities or the likely outcome of the lawsuit. Therefore, the motion will be denied without prejudice to plaintiff’s renewing his request at

a later time.

The court will accept plaintiff's reply brief and the matter will be under advisement with the court.

ORDER

IT IS ORDERED that plaintiff defendant L.C. Graves's motion for recruitment of counsel is denied without prejudice.

Entered this 18th day of June, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge