

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

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LADERIAN McGHEE,

Plaintiff,

v.

DALIA SULIENE, KAREN ANDERSON,  
and KEN ADLER,

Defendants.  
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ORDER

15-cv-258-bbc

Pro se prisoner Laderian McGhee is proceeding on the following claims: (1) defendants Dalia Suliene and Karen Anderson refused to change plaintiff's medication or refer him to a specialist, in violation of the Eighth Amendment and state negligence law; (2) defendant Adler reduced the dosage of plaintiff's medication, in violation of the Eighth Amendment and state negligence law. Now before the court is plaintiff's second motion for assistance in recruiting counsel. Dkt. #24.

I denied plaintiff's first request for two reasons. Dkt. #20. First, plaintiff had not shown that he made reasonable efforts to find counsel on his own. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). Second, plaintiff had not shown that the complexity of the case exceeds his ability to litigate. Pruitt v. Mote, 503 F.3d 647, 654-55 (7th Cir. 2007).

With his new motion, plaintiff attached rejection letters from several Wisconsin law

firms, dkt. #25-1, so I conclude that plaintiff has satisfied the requirement from Jackson. However, plaintiff still has not shown that the complexity of the case exceeds his ability to litigate, so I am denying his motion.

Plaintiff lists several reasons why he believes he needs the court's assistance in obtaining counsel. First, he acknowledges that he successfully litigated two other cases in this court through the summary judgment stage without the assistance of counsel, McGhee v. Ashworth, No. 09-cv-722-slc (W.D. Wis.); McGhee v. Suliene, No. 13-cv-67-bbc (W.D. Wis.), but he says that he had the assistance of another prisoner in those cases. Plaintiff says that the other prisoner cannot help him in this case. Regardless whether that is true, I have seen no drop in the quality of plaintiff's submissions. I cannot assist plaintiff in obtaining a lawyer simply because he is litigating on his own. Henderson v. Ghosh, 755 F.3d 559, 565 (7th Cir. 2014) (prisoner's assistance from other prisoners irrelevant to question whether court should assist prisoner in recruiting counsel).

Second, plaintiff says that defendant Suliene has been "difficult to track down" and her conduct in one of plaintiff's previous cases suggests that she will be slow to respond to discovery requests. As proof that Suliene is a "problematic defendant," plaintiff cites the decision of the Department of Justice not to accept service for Suliene, even though they accepted service for the other two defendants.

It is understandable that plaintiff would be confused by the acceptance of service form submitted by the Department of Justice in this case because the department did not provide any reason for accepting service for defendants Anderson and Adler, but not Suliene.

Although the form lists Suliene as “retired,” the form states that Adler is retired as well.

Dkt. #10. Accordingly, I ask that defense counsel submit an amended form explaining the discrepancy. In the future, the department should state clearly the reason it is not accepting service for a particular defendant.

Regardless of the reason that the Department of Justice did not accept service for defendant Suliene, it has no bearing on the question whether plaintiff needs counsel in this case. Defendant Suliene has been served by the Marshals Service, dkt. #21, and she has filed a timely answer to the complaint, dkt. #22, so plaintiff should have no difficulty contacting Suliene through her lawyer. Further, it is premature for plaintiff to argue that Suliene will not comply with her discovery obligations. If she does not, the proper response is a motion to compel discovery under Fed. R. Civ. P. 37, not a motion for assistance in recruiting counsel.

Third, plaintiff says this case is more complicated than his previous cases, but that remains to be seen. As I noted in the previous order, one of plaintiff’s previous cases involved medical issues as well. In any event, the only question before the court now is whether plaintiff exhausted his administrative remedies. (Defendants filed a motion for partial summary judgment on that ground on December 4, 2015, dkt. #28; plaintiff’s response is due January 11, 2016.) Plaintiff does not need specialized knowledge of medical issues to address issues related to exhaustion. If it is clear after the parties have filed their summary judgment materials that the complexity of the case exceeds plaintiff’s litigation abilities, he may renew his motion at that time.

ORDER

IT IS ORDERED that

1. Plaintiff Laderian McGhee's motion for assistance in recruiting counsel, dkt. #24, is DENIED.

2. Defense counsel may have until January 21, 2016 to submit an amended acceptance of service form, as described in this order.

Entered this 30th day of December, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge