

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

CARL C. GILBERT, II,

Plaintiff,

v.

ORDER

TOM BENDER, JUSTINE STEINMETZ,
and DANIEL KATTENBRAKER,

20-cv-193-jdp

Defendants.

CARL C. GILBERT, II,

Plaintiff,

v.

ORDER

DANIEL KATTENBRAKER, ERIC NESS,
NATHAN HEGGESETH, LAURA THOMAS,
KAYLA REIMAN, JUSTINE STEINMETZ,
CARLA VENABLE, COLTON WINDERS,
DR. HORAN and MILE BLUFF MEDICAL CENTER,

20-cv-194-jdp

Defendants.

Plaintiff Carl C. Gilbert II, appearing pro se, is a civil detainee confined at Sand Ridge Secure Treatment Center. He has two pending cases in this court. In Case No. 20-cv-193-jdp, Gilbert alleges that defendant officers and medical staffers strapped him down to a bed for two days without clothes and forced him to take psychotropic drugs. In Case No. 20-cv-194-jdp, Gilbert alleges that state officials and private providers failed to provide him with adequate medical care for an injury to his right knee.

Gilbert has filed largely identical motions in both cases renewing his motions for the court's assistance in recruiting him counsel, along with what he calls a motion for writ of

mandamus asking me to reverse various decisions made by Magistrate Judge Stephen Crocker in both cases, including denying Gilbert's previous motions for recruitment of counsel and motions to compel discovery. Dkts. 99–102 in the '194 case. I won't reverse the previous decisions made by Magistrate Judge Crocker because they were sound given the information Gilbert had presented the court at those times.

But Gilbert's renewed motions for recruitment of counsel have persuaded me that it is appropriate to attempt to recruit counsel for him in the '194 case. He has now provided psychological assessments stating that he is in the low-average or borderline range for various cognitive-functioning measures. *See* Dkt. 100-1 in the '194 case. That alone wouldn't make him materially different than many of the prisoners who file lawsuits in this court, and Gilbert's filings in this court show that has been able to complete basic tasks like presenting his claims and filing motions on his own behalf. But it seems likely that his claims in the '194 case—about his medical treatment both preceding and following a knee replacement surgery—will be too medically complex for Gilbert to litigate on his own. The case presents additional legal complexity, as Gilbert is also presently litigating whether defendants Dr. Horan and Mile Bluff Medical Center have defaulted on the claims against them.

The '194 case will be stayed pending recruitment of counsel. If I find counsel willing to represent Gilbert, I will advise him of that fact. Soon thereafter, a status conference will be held to set a new schedule. The court receives many requests for counsel, so the search for counsel may take several months, and there is no guarantee that the court will find counsel willing to represent him.

I will deny Gilbert's request for counsel in the '193 case. That case is not particularly complex: ii involves a discrete two-day period in which Gilbert says that staff strapped him to

a bed and forced psychotropic medications on him, and defendants appear to be denying that any of that happened. The case doesn't boil down to complex medical issues and Gilbert can testify about the events using his own personal knowledge of what happened. Gilbert appears able to conduct litigation tasks running at least through the summary judgment stage. If the case survives summary judgment, I will reconsider whether counsel will be necessary for Gilbert to conduct a trial. But, again, there are only limited numbers of attorneys willing to take pro bono cases in this court, and it is unlikely that the court will be able to find separate sets of attorneys to represent him in his two cases.

ORDER

IT IS ORDERED that:

1. Plaintiff Carl C. Gilbert's motions for reconsideration, Dkts. 101 and 102 in Case No. 20-cv-194-jdp, are DENIED.
2. Plaintiff's renewed motions for recruitment of counsel in Case No. 20-cv-194-jdp, Dkts. 99 and 100 in that case, are GRANTED.
3. The '194 case is STAYED pending recruitment of counsel for plaintiff.
4. Gilbert's renewed motion for recruitment of counsel in Case No. 20-cv-193-jdp, Dkt. 92 in that case, is DENIED.

Entered June 12, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge