

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

David W. Watts v. Charles Bergren

No. 24-cv-504-wmc (W.D. Wis. Mar. 31, 2026) · No. 24-cv-504-wmc · Decided March 31, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin denied David Watts's motions for assistance recruiting counsel, to compel discovery, and for a temporary stay in connection with a scheduled Pavey hearing on exhaustion of administrative remedies. The court kept the hearing record open for 45 days to allow limited discovery concerning Watts's journal, a visitor log, and allegedly destroyed inmate complaints, and struck the discovery and dispositive-motion deadlines pending a decision on exhaustion.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	March 31, 2026
DOCKET	24-cv-504-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Inmate plaintiff sought assistance recruiting counsel, a temporary stay, and an order compelling discovery before and during a Pavey hearing concerning exhaustion of administrative remedies. The court denied the motions, kept the hearing record open for limited additional evidence, and struck the discovery and dispositive-motion deadlines pending a final exhaustion determination.
PRECEDENTIAL VALUE	Unknown

TOPICS

- discovery dispute
- prisoners rights
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether the court should recruit pro bono counsel for the incarcerated pro se plaintiff based on his hearing loss and reported mental-health issues.
2. Whether the court should compel discovery before the Pavey hearing when the requested discovery did not bear on the availability of administrative remedies at issue at that hearing.
3. Whether the court should stay the case because the plaintiff lacked access to some legal materials and personal belongings after institutional transfers.
4. Whether the Pavey hearing record should remain open for limited additional evidence concerning the plaintiff's journal, a visitor log, and allegedly destroyed inmate complaints.

HOLDINGS

1. The request for assistance recruiting counsel was denied without prejudice because the plaintiff demonstrated that he could adequately represent himself and pro bono counsel was a scarce resource in the district.
2. The motion to compel was denied because the requested discovery did not bear on the availability of administrative remedies at issue in the Pavey hearing.
3. The motion to stay was denied, except that the court kept the Pavey record open for 45 days to permit limited additional evidence.
4. The court authorized limited discovery and additional evidence through May 14, 2026, for the specific purpose of supplementing the factual record concerning the plaintiff's journal, the June 7, 2024 visitor log, and the claimed destruction of three inmate complaints.

KEY QUOTATIONS

“Because plaintiff demonstrated that he could represent himself, and pro bono counsel is unfortunately a scarce resource in this district, plaintiff’s motion for assistance recruiting counsel was DENIED without prejudice.” (Section I)

“Because the requested discovery did not bear on the question of the availability of administrative remedies at issue for the March 30 hearing, that motion was also DENIED.” (Section II)

“The discovery and dispositive motion deadlines are STRUCK pending a final decision on exhaustion following the close of the record of the Pavey hearing, while all other case deadlines remain.” (Order paragraph 3)

FACTUAL BACKGROUND

David Watts, an incarcerated pro se plaintiff, claimed that Officer Bergren brought inmate complaints to his cell and destroyed them. Watts also asserted that a journal retained at his former institution and a visitor log concerning Captain Pitzen's alleged June 7, 2024 visit could provide relevant evidence. He had hearing loss and reported mental-health issues, but the court found that he could hear, understand, respond to questions, and present arguments adequately. The requested discovery did not concern the availability of administrative remedies at issue in the scheduled Pavey hearing.

PROCEDURAL HISTORY

Plaintiff filed a civil action and was scheduled for a Pavey hearing on whether he had exhausted available administrative remedies. Shortly before the March 30, 2026 hearing, he moved for recruited counsel, a stay, and compelled discovery. The court denied those motions, conducted the hearing, allowed limited supplementation of the record through May 14, 2026, directed defense counsel to assist in obtaining specified records, and suspended the discovery and dispositive-motion deadlines pending a ruling on exhaustion.

DISPOSITION

other

CASES CITED

- Pavey v. Conley, 544 F.3d 739 (7th Cir. 2008)

OPINION

David W. Watts v. Charles Bergren

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID W. WATTS,

Plaintiff, ORDER v. 24-cv-504-wmc

CHARLES BERGREN,

Defendant. Plaintiff David Watts, an inmate representing himself, filed last-minute motions for assistance in recruiting counsel, a temporary stay, and to compel discovery responses before proceeding with a long-scheduled Pavey hearing on the issue of exhaustion.¹ On March 30, 2026, the court addressed and denied plaintiff's motions for reasons more fully addressed on the record but briefly addressed below, then proceeded to hold the Pavey hearing. Even so, during the hearing itself, plaintiff also requested additional time to submit evidence once he can: (1) review a journal that he claimed to have kept during the relevant time period but had not yet been returned to him after his move to Columbia Correctional Institution from New Lisbon Correctional Institution, and (2) confirm if any log exists of Captain Pitzen's purported visit to him on June 7, 2024, and if not, why not. The court agreed to keep the Pavey record open to give the parties more time as to both. Finally, defendant requested an extension of the discovery and dispositive motion deadlines for the same reason, which the court granted. ¹ Pavey v. Conley, 544 F.3d 739 (7th Cir. 2008). I. Motion for Assistance Recruiting Counsel Plaintiff moved for assistance recruiting counsel, describing his difficulty hearing and ongoing mental health issues. Plaintiff provided some evidence of the former, although in the form of a September 2025 hearing exam note that confirmed his "moderately severe to profound sensorineural hearing loss," but "excellent word recognition." As for his ongoing mental health issues, while defendant provided a note stating his "referral" to the

Wisconsin Resource Center was a “high priority,” he appeared well oriented to the time, place and manner of the hearing and fully able to represent himself. Regardless, the court was able to confirm that plaintiff could adequately hear, understand, and respond to questions and make arguments intelligibly before proceeding with the hearing, a finding wholly confirmed during the Pavey hearing itself. Because plaintiff demonstrated that he could represent himself, and pro bono counsel is unfortunately a scarce resource in this district, plaintiff’s motion for assistance recruiting counsel was DENIED without prejudice. II. Motion to Compel Plaintiff moved to compel discovery responses, representing that the responses would have been necessary to his presentation of evidence at the Pavey hearing. Because the requested discovery did not bear on the question of the availability of administrative remedies at issue for the March 30 hearing, that motion was also DENIED. III. Motion for Temporary Stay Plaintiff also moved for a stay of this case, describing that he was in observation at New Lisbon, where he did not have access to his legal materials. He was then transferred to Columbia, where he states that he still does not have access to some of his belongings. Nonetheless, because plaintiff had several weeks at Columbia to prepare for the hearing, and the central issue was whether plaintiff’s previous submissions and testimony were credible, this motion was DENIED as well, except to keep the record open for 45 days: (1) to permit plaintiff access to his journal and to the visitor log for Columbia Unit 6 on June 7, 2024; and (2) to submit any additional, relevant materials regarding defendant’s claimed destruction of three, early June 2024 inmate complaints. IV. Remaining Matters During the hearing, plaintiff repeatedly referenced his journal that remains at New Lisbon, and he states that the journal would have shown the exact dates in which Officer Bergren brought plaintiff’s inmate complaints to his cell and destroyed them. Because plaintiff has not been able to access this journal since transferring to Columbia, the court will allow discovery for the limited purpose of supplementing the factual record for the Pavey hearing. Both plaintiff and defendant must submit any additional evidence for the record on or before May 14, 2026. Defendant’s counsel is also DIRECTED to assist plaintiff with obtaining his journal from his previous institution and determining the availability of records showing Capt. Pitzen visited plaintiff at Columbia Unit 6 on June 7, 2024. Finally, the court will strike the discovery and dispositive motion deadline and reschedule both, if necessary, in its order on the motion for summary judgment for failure to exhaust administrative remedies. All other case deadlines remain in place.

ORDER

IT IS ORDERED that: 1) Plaintiff’s motions to stay this case, for assistance recruiting counsel, and to compel production of evidence are DENIED. (Dkt. #69.) 2) Limited discovery for the purposes described above will be available until May 14, 2026. 3) The discovery and dispositive motion deadlines are STRUCK pending a final decision on exhaustion following the close of the record of the Pavey hearing, while all other case deadlines remain. Entered this 31st day of March, 2026. BY THE COURT: /s/

WILLIAM M. CONLEY

District Judge

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