

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)