

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Trenton L. McCorkle v. Megan T. Neu

McCorkle v. Neu · No. 24-cv-605-jdp · Decided March 6, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin denies without prejudice Trenton L. McCorkle’s motion for assistance in recruiting counsel in his 42 U.S.C. § 1983 Eighth Amendment case. The court also denies as premature his petitions for writs of habeas corpus ad testificandum because he has not yet responded to or survived the defendant’s summary judgment motion.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	Anita Marie Boor
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	March 6, 2026
DOCKET	24-cv-605-jdp
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought an Eighth Amendment damages claim under 42 U.S.C. § 1983. While defendant's summary-judgment motion was pending, plaintiff moved for assistance in recruiting counsel and petitioned for writs of habeas corpus ad testificandum.
PRECEDENTIAL VALUE	Unpublished district-court order with limited precedential value

TOPICS

- civil procedure
- summary judgment
- prisoners rights
- section 1983

PRACTICE AREAS

- civil procedure
- civil rights
- constitutional law
- prisoner litigation

QUESTIONS PRESENTED

1. Whether the court should assist McCorkle in recruiting counsel because he could not adequately litigate the case without counsel.
2. Whether the court should issue writs of habeas corpus ad testificandum to secure trial testimony while defendant's summary-judgment motion remained pending.

HOLDINGS

1. A pro se prisoner seeking court assistance in recruiting counsel must show inability to afford counsel, reasonable efforts to find counsel, and that the legal and factual difficulty of the case exceeds the prisoner's ability to litigate it without counsel. McCorkle had not shown that the third requirement was satisfied because the case was not sufficiently complex at that stage.
2. Requests to secure witnesses for trial are premature when the plaintiff has not yet survived summary judgment.

FACTUAL BACKGROUND

McCorkle, proceeding pro se, alleges that Megan Neu failed to assign him to a low bunk or a top bunk with safety railings despite his mental-health problems and history of falling. He alleges that he later fell from a top bunk during a psychotic episode and seeks damages under the Eighth Amendment. The court considered the limited factual allegations and the materials submitted in support of Neu's pending summary-judgment motion when evaluating McCorkle's request for counsel.

PROCEDURAL HISTORY

The court previously allowed McCorkle to proceed on an Eighth Amendment claim alleging that defendant consciously disregarded his safety by failing to assign him a safe bunk. Defendant moved for summary judgment, and before McCorkle's response was due, McCorkle moved for assistance in recruiting counsel and sought writs to secure testimony from two medical professionals and a prisoner. The court denied the request for counsel without prejudice and denied the writ petitions as premature.

DISPOSITION

other

CASES CITED

- Jackson v. Cty. of McLean, 953 F.2d 1070, 1073 (7th Cir. 1992)
- Pruitt v. Mote, 503 F.3d 647, 655 (7th Cir. 2007) (en banc)

OPINION

Trenton L. McCorkle v. Megan T. Neu

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

TRENTON L. MCCORKLE,

Plaintiff,

ORDER

v. 24-cv-605-jdp

MEGAN T. NEU,

Defendant. Plaintiff Trenton L. McCorkle, who's representing himself, seeks relief under 42 U.S.C. § 1983. Dkt. 1. The court allowed McCorkle to proceed on an Eighth Amendment claim for damages based on the conscious disregard of his safety. Dkt. 11. The complaint's main idea is that Neu failed to assign McCorkle to a low bunk or a top bunk with safety railings even though he had mental health problems and history of falling, which caused him to fall from his top bunk during a subsequent psychotic episode. Neu moves for summary judgment. Dkt. 26. McCorkle's response is due March 30, 2026. McCorkle moves for court assistance in recruiting counsel, Dkt. 30, and he petitions the court to issue writs of habeas corpus ad testificandum for two medical professionals and a prisoner, see Dkt. 31. For the following reasons, McCorkle's motion for court assistance in recruiting counsel is denied without prejudice, and his petitions for writs of habeas corpus ad testificandum are denied as premature.

ANALYSIS

A. Motion for court assistance in recruiting counsel McCorkle contends that appointment of counsel is warranted because he has difficulty processing information and several mental health problems. More specifically, McCorkle says that he hears voices that make him mistrust what is in front of him and that he sees and hears things that are not there. *Id.* at 1–2. A party requesting court assistance in recruiting counsel must show three things: (1) he cannot afford to hire counsel, 28 U.S.C. § 1915(e)(1); (2) he's made reasonable efforts on his own to find counsel, *Jackson v. Cty. of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992); and (3) the legal and factual difficulty of the case exceeds his ability to prosecute it without counsel, *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007) (en banc). Jones has met the first requirement because he proceeds without prepaying the filing fee, and the court will assume for purposes of this order that he has met the second requirement. But, on the third requirement, McCorkle hasn't shown that this case involves issues that are too complex for him to handle without counsel. At this stage, the issues in this case are not complex. The factual allegations underlying McCorkle's claim are limited and straightforward. Neu's summary judgment materials do not appear to involve any complex issues. The court's scheduling order contains instructions on how to respond to a motion for summary judgment, which should help McCorkle prepare his response. The court does not doubt that McCorkle's stated educational and mental health problems make litigation generally challenging, but prisoners facing similar obstacles handle issues of comparable or greater difficulty every day in federal courts. McCorkle is entitled to necessary mental health care as a prisoner, so he can work with medical and psychological staff to look for ways to manage his symptoms. McCorkle has not shown that he requires the assistance of counsel to litigate this case at this stage. His motion is

denied without prejudice. If McCorkle withstands summary judgment, he will be free to renew his motion before trial. But McCorkle will have to explain what trial tasks would be too difficult for him to complete without counsel. McCorkle should also make efforts to write more neatly in any future handwritten submission. B. Petitions for writs of habeas corpus ad testificandum McCorkle moves the court to issue the writs of habeas corpus ad testificandum pursuant to “Fed. R. Civ. P. 26(3)(a)(iii).” This provision does not exist, so it does not provide any legal authority for the requests. Besides, McCorkle has yet to survive summary judgment, so his requests for the individuals named in the petitions to testify at trial are premature. If McCorkle withstands summary judgment, the court will issue a trial preparation order that contains instructions on, among other trial tasks, calling witnesses to testify at trial.

ORDER

IT IS ORDERED that:

1. Plaintiff Trenton L. McCorkle’s motion for court assistance in recruiting counsel, Dkt. 30, is DENIED without prejudice.

2. Plaintiff’s petitions for writ of habeas corpus ad testificandum, see Dkt. 31, are

DENIED as premature. Entered March 6, 2026. BY THE COURT: /s/

ANITA MARIE BOOR

Magistrate Judge