

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Luis Curet v. Tonia Rozmarynoski, et al.

Curet · No. 25-cv-6-pp · Decided May 28, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin denied without prejudice Luis Curet’s motion to appoint counsel in his § 1983 action. The court found that Curet had made a reasonable effort to obtain counsel and was competent to litigate his noncomplex claims, while extending his deadline to respond to the defendants’ motions for summary judgment to June 19, 2026.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Pamela Pepper
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	May 28, 2026
DOCKET	25-cv-6-pp
DISPOSITION	other
PROCEDURAL POSTURE	In a prisoner civil-rights action under 42 U.S.C. § 1983, the incarcerated pro se plaintiff moved for recruitment or appointment of counsel while defendants' motions for summary judgment on exhaustion grounds were pending.
STANDARD OF REVIEW	The court exercised discretion under 28 U.S.C. § 1915(e)(1), applying the two-part Pruitt inquiry: whether the indigent plaintiff made a reasonable attempt to obtain counsel and, given the difficulty of the case, whether the plaintiff appeared competent to litigate it himself. The court could also consider the merits of the claims and what was at stake in light of the scarcity of pro bono counsel.
PRECEDENTIAL VALUE	unpublished district-court order
PARTIES	Luis Curet v. Tonia Rozmarynoski, Apolapenko, Granius, Rachel Matushak, Utter, Korpita

TOPICS

civil procedure

summary judgment

section 1983

prisoners rights

constitutional law

PRACTICE AREAS

civil procedure

prisoner civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether the incarcerated, indigent plaintiff satisfied the threshold requirement of making a reasonable or good-faith effort to obtain counsel.
2. Whether the factual and legal difficulty of the plaintiff's claims exceeded his demonstrated ability to litigate them without recruited counsel.
3. Whether the motion to appoint counsel should be denied without prejudice and whether the plaintiff should receive additional time to respond to the pending summary-judgment motions.

HOLDINGS

1. The plaintiff made a reasonable attempt to obtain counsel and therefore satisfied the first prong of the governing test.
2. The plaintiff had not shown that the difficulty of the case exceeded his capacity as a pro se litigant; accordingly, recruitment of counsel was not warranted at that time.
3. The motion to appoint counsel was denied without prejudice.

KEY QUOTATIONS

"[D]eciding whether to recruit counsel 'is a difficult decision: Almost everyone would benefit from having a lawyer, but there are too many indigent litigants and too few lawyers willing and able to volunteer for these cases.'"

"The court will deny without prejudice his motion to appoint counsel."

FACTUAL BACKGROUND

Luis Curet is incarcerated at Columbia Correctional Institution and is representing himself in a § 1983 action. His claims concern alleged use of OC mace and a taser, denial of a shower and medical care, and lewd comments about his body during a strip search. He submitted letters from lawyers declining representation and argued that incarceration and anticipated summary judgment or trial proceedings would impair his ability to litigate.

PROCEDURAL HISTORY

The court screened the complaint and allowed the plaintiff to proceed on Eighth Amendment excessive-force and medical-care claims and Eighth and Fourth Amendment claims concerning lewd comments during a strip search. The plaintiff moved for appointment of counsel, asserting indigence, incarceration, anticipated conflicting testimony, and efforts to obtain counsel. The court found that he had made a reasonable effort to obtain counsel

but was competent to litigate the relatively straightforward claims and respond to the pending summary-judgment motions, so it denied the motion without prejudice and extended his response deadline.

DISPOSITION

other

CASES CITED

- Navejar v. Iyola, 718 F.3d 692, 696 (7th Cir. 2013)
- Ray v. Wexford Health Sources, Inc., 706 F.3d 864, 866-867 (7th Cir. 2013)
- Henderson v. Ghosh, 755 F.3d 559, 564 (7th Cir. 2014)
- Olson v. Morgan, 750 F.3d 708, 711 (7th Cir. 2014)
- Eagan v. Dempsey, 987 F.3d 667, 682 (7th Cir. 2021)
- Pruitt v. Mote, 503 F.3d 647, 654-655 (7th Cir. 2007)
- Watts v. Kidman, 42 F.4th 755, 763-764 (7th Cir. 2022)
- Pickett v. Chicago Transit Authority, 930 F.3d 869, 871 (7th Cir. 2019)
- Pennewell v. Parish, 923 F.3d 486, 490-491 (7th Cir. 2019)

OPINION

Curet

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

LUIS CURET,

Plaintiff, v. Case No. 25-cv-6-pp TONIA ROZMARYNOSKI, et al., Defendant.

ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION TO
APPOINT COUNSEL (DKT. NO. 56)

Plaintiff Luis Curet, who is incarcerated at Columbia Correctional Institution and is representing himself, filed a complaint under 42 U.S.C. §1983. The court screened the complaint and allowed the plaintiff to proceed on the following claims: (1) an Eighth Amendment excessive force claim against defendant Rozmarynoski for allegedly unnecessarily using OC mace and a taser on him (2) an Eighth Amendment medical care claim against defendants Apolapenko, Granius, Rachel Matushak, Rozmarynoski and Utter for allegedly denying him a shower and medical care after the incident with Rozmarynoski; and (3) Eighth and Fourth Amendment claims against defendant Korpita for allegedly making lewd comments about the plaintiff's body and genitalia during the strip search immediately preceding the incident with Rozmarynoski. Dkt. No. 17 at 9-10. This

order addresses the plaintiff's motion to appoint counsel. Dkt. No. 56. The plaintiff states that he cannot afford a lawyer and that his imprisonment will greatly limit his ability to litigate. *Id.* at 1. He says that summary judgment or a trial likely will involve conflicting testimony, and that counsel would better enable him to present evidence and cross-examine witnesses. *Id.* The plaintiff states that he has made repeated efforts to obtain a lawyer. *Id.* He has filed letters from lawyers declining to represent him. Dkt. Nos. 36, 52 at 9, 54. In a civil case, the court has discretion to recruit a lawyer for individuals who cannot afford to hire one. *Navejar v. Iyola*, 718 F.3d 692, 696 (7th Cir. 2013); 28 U.S.C. §1915(e)(1); *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866-67 (7th Cir. 2013). "[D]eciding whether to recruit counsel 'is a difficult decision: Almost everyone would benefit from having a lawyer, but there are too many indigent litigants and too few lawyers willing and able to volunteer for these cases.'" *Henderson v. Ghosh*, 755 F.3d 559, 564 (7th Cir. 2014) (quoting *Olson v. Morgan*, 750 F.3d 708, 711 (7th Cir. 2014)). In exercising its discretion, the court must consider two things: "(1) 'has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so,' and (2) 'given the difficulty of the case, does the plaintiff appear competent to litigate it himself?'" *Eagan v. Dempsey*, 987 F.3d 667, 682 (7th Cir. 2021) (quoting *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007)). And, given the scarcity of pro bono counsel resources, the court may also consider the merits of a plaintiff's claim and what is at stake. *Watts v. Kidman*, 42 F.4th 755, 763-64 (7th Cir. 2022). To satisfy the first prong, the court must determine that a plaintiff made a good faith effort to hire counsel. *Pickett v. Chi. Transit Auth.*, 930 F.3d 869, 871 (7th Cir. 2019). "This is a mandatory, threshold inquiry that must be determined before moving to the second inquiry." *Eagan*, 987 F.3d at 682. To demonstrate he satisfied the first prong, the plaintiff must show he contacted at least three lawyers and provide the court with the lawyers' names, their addresses, how and when the plaintiff attempted to contact the lawyer and the lawyers' responses. "The second inquiry requires consideration of both the factual and legal complexity of the plaintiff's claims and the competence of the plaintiff to litigate those claims." *Eagan*, 987 F.3d at 682. When considering the second prong, the court "must examine the difficulty of litigating specific claims and the plaintiff's individual competence to litigate those claims without counsel." *Pennewell v. Parish*, 923 F.3d 486, 490 (7th Cir. 2019). The court looks at "whether the difficulty of the case, factually, legally, and practically, exceeds the litigant's capacity as a layperson to coherently litigate the case." *Id.* This includes "all tasks that normally attend litigation," such as "evidence gathering, preparing and responding to court filings and motions, navigating discovery, and putting on a trial." *Id.* at 490-491. The court "must consider the plaintiff's literacy, communication skills, education level, litigation experience, intellectual capacity, psychological history, physical limitations and any other characteristics that may limit the plaintiff's ability to litigate the case." *Id.* at 491. In situations where the plaintiff files his motion in the early stages of the case, the court may determine that it is "impossible to tell whether [the plaintiff] could represent himself adequately." *Pickett*, 930 F.3d at 871. The plaintiff has made a reasonable attempt to find a lawyer on his own, so he has satisfied the first prong. But

the plaintiff's filings demonstrate that he can advocate for himself and communicate well. His filings are clear and persuasive. The plaintiff's claims are not complex. They involve incidents that the plaintiff has described in the complaint and of which he has personal knowledge. The defendants' motions for summary judgment on exhaustion grounds currently are pending. The court has provided the plaintiff with information about responding to the motions. Dkt. No. 51. The plaintiff's filings show that he is capable of responding to the defendants' motions for summary judgment on exhaustion grounds. The court will deny without prejudice his motion to appoint counsel. The court recently extended the time for the plaintiff to respond to the defendants' motions, giving him until the end of the day on May 29, 2026. Dkt. No. 55. However, due to the court's delay in addressing the instant motion to appoint counsel, the plaintiff may need more time to respond. The court will provide the plaintiff another brief extension and set a new response deadline below. The court DENIES WITHOUT PREJUDICE the plaintiff's motion to appoint counsel. Dkt. No. 56. The court ORDERS that the time for the plaintiff to file his response(s) to the defendants' motions for summary judgment is EXTENDED until the end of the day on June 19, 2026. If the plaintiff does not respond to the defendants' motions for summary judgment by the end of the day on June 19, 2026, the court will consider the motions as unopposed and decide them without input from the plaintiff. Dated in Milwaukee, Wisconsin this 28th day of May, 2026. BY THE COURT:

ON. PAMELA PEPPER

Chief United States District Judge