

1992 WL 426451
United States District Court, D. Rhode Island.

Charles HOCKENHULL, Plaintiff

v.

George A. VOSE, Donald R. Ventetuolo, Ronald R.
Brule, Roberta Richman and Michael Reynolds,
Defendants

Civ. A. No. 91-0267 L. | May 7, 1992.

Attorneys and Law Firms

Charles H. and all other inmates at the ACI Cranston, RI,
pro se.

Michael B. Grant, George M. Cappello, Dept. of
Corrections, Cranston, RI, for defendants.

Opinion

REPORT & RECOMMENDATION

HAGOPIAN, United States Magistrate Judge.

*1 Before the Court is Plaintiff Hockenull's motion for class certification pursuant to Fed.R.Civ.P. 23. My findings and recommendations are reported pursuant to 28 U.S.C. Section 636(b)(1)(B) and (C) and Local Rules of Court 32(C)(2).

I. INTRODUCTION

Plaintiff Charles Hockenull has filed a complaint alleging violation of various of his civil rights and invoking the remedial provisions of 28 U.S.C. § 1983. The Plaintiff is confined at the Adult Correctional Institutions (ACI) in Cranston, RI. The Defendants Vose, Ventetuolo, Brule, Richman and Reynolds are all officials of the ACI. The Plaintiff, a layman who appears pro se,

Footnotes

¹ Any objection to this Recommendation must be specific and must be filed with the Clerk of Court within ten (10) days of the receipt of the Recommendation. Rule 32, Local Rules of Court; Rule 72(b), Fed.R.Civ.P. Failure to timely file specific objections to the magistrate judge's Recommendation, Findings or Report is a waiver of the right to review by the District Court. *Park Motor Mart, Inc. v. Ford Motor Co.*, 616 F.2d 603 (1st Cir.1980).

moves the court to certify the case to proceed as a class action. For the reasons below, the Plaintiff's motion should be denied.

II. DISCUSSION

Amongst the many requirements for certification as a class action, perhaps no one is more integral than that the Plaintiff "fairly and adequately protect the interest of the class." Fed.R.Civ.P. 23(a)(4). Adequate representation requires inter alia that the plaintiffs' counsel in a class action be experienced, qualified and able to conduct such a litigation. *Eisen v. Carlisle & Jacquelin*, 391 F.2d 555, 562 (2d Cir.1968).

Plaintiff Hockenull, a layman appearing pro se, moves the Court to certify the claims in his complaint to proceed as a class action. The overwhelming authority from courts which have dealt with this issue holds that a pro se layman cannot adequately represent a class as required by Fed.R.Civ.P. 23(a)(4). In *Oxendine v. Williams*, the Court wrote that the "[a]bility to protect the interests of the class depends in part on the quality of counsel ... and we consider the competence of a layman representing himself to be clearly too limited to allow him to risk the rights of others." 509 F.2d 1405, 1407 (4th Cir.1975). *Accord Storms v. Coughlin*, 600 F.Supp. 1214, 1217 (S.D.N.Y.1984); *Martin v. Middendorf*, 420 F.Supp. 779, 780 (D.D.C.1976).

III. CONCLUSION

Accordingly, Plaintiff Hockenull's motion for class certification pursuant to Fed.R.Civ.P. 23 should be denied. I so recommend to the Court.¹

Parallel Citations

22 Fed.R.Serv.3d 1408

