

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

JODENE LARUE,

Plaintiff,

VS.

STAFFMARK,

Defendant.

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NO: 3:08CV00156 SWW

Order

Plaintiff Jodene LaRue commenced this Title VII employment discrimination action *pro se*. She claims defendant discriminated against her by failing to promote her and retaliating against her. Along with her complaint, plaintiff filed an application to proceed *in forma pauperis* and a motion for appointment of counsel

The Eighth Circuit has instructed that the decision of whether a complaint is frivolous or malicious precedes the decision of whether to grant *in forma pauperis* status and whether to order service of process. *See Carney v. Houston* 33 F.3d 893, 895 (8th Cir. 1994)(quoting *Gentile v. Missouri Dept. Of Corrections*, 986 F.2d 214 (8th Cir. 1993)). “If the complaint is frivolous or malicious, the district court should dismiss it out of hand.” *Id.* A complaint is frivolous where it lacks an arguable basis either in law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325-27 (1989). Plaintiff states no facts in support of her allegations. She merely says: “Retaliation, Age Discrimination.” Compl., ¶ 9. Therefore, the Court will dismiss plaintiff’s complaint unless she amends her complaint to specify the facts upon which her claims are based.

Plaintiff must file an amended complaint within thirty (30) days of the date of this Order.

Failure to do so will result in dismissal of the complaint.

SO ORDERED this 24th of September 2008.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE