

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

GLENN WHITFIELD,

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Plaintiff,

\*

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vs.

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No. 4:10cv00177 SWW

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DALE BURNS DEVELOPMENT, as agents  
of McDonald’s Corporation,

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Defendant.

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ORDER

Plaintiff Glenn Whitfield brings this *pro se* action against Dale Burns Development, as agents of McDonald’s Corporation, alleging race discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* Plaintiff has been provisionally granted *in forma pauperis* status. For the reasons that follow, the Court dismisses this action without prejudice for failure to exhaust his administrative remedies.

A Title VII plaintiff must exhaust administrative remedies before bringing suit in federal court. *Cottrill v. MFA, Inc.*, 443 F.3d 629, 634 (8<sup>th</sup> Cir. 2006). In addition to first timely filing an administrative charge with the Equal Employment Opportunity Commission (EEOC), *see id.*, the plaintiff must also receive from the EEOC a “right to sue” letter. *Shannon v. Ford Motor Co.*, 72 F.3d 678, 684 (8<sup>th</sup> Cir. 1996). “The proper exhaustion of administrative remedies gives the plaintiff a green light to bring her employment-discrimination claim. *Id.*”

Here plaintiff states in his form Title VII complaint that the EEOC issued a Notice of Right to Sue which was received on March 22, 2010, and states the copy of that notice is attached to the complaint. But what plaintiff attaches to his complaint is not a notice of right to

sue letter but the actual EEOC charge of discrimination itself, which is dated March 22, 2010, and stamped as received that day. It is thus clear that plaintiff's complaint is premature – plaintiff having not yet received from the EEOC a right to sue letter – and must be dismissed without prejudice for failure to exhaust. Plaintiff may refile his Title VII complaint upon receipt of a right to sue letter from the EEOC.

IT IS SO ORDERED this 24<sup>th</sup> day of March 2010.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE