

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:11CV-619-H

SHARON R. HEATH

PLAINTIFF

V

KENTUCKY COMMUNITY &
TECHNICAL COLLEGE, et al.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Plaintiff, Sharon R. Heath, has filed (1) a motion for summary judgment on her claims, (2) a motion for injunctive relief and (3) a motion to subpoena the Discussion Board posts and lectures of Dr. Robert Urekew. Defendant has moved for summary judgment on Plaintiff's age discrimination claims. The Court will consider each motion.

I.

Plaintiff is a 58-year-old female who filed this case alleging that the Kentucky Community & Technical College System ("KCTCS") wrongfully failed to hire her in its adult education program on the basis of her age and gender.

Since the time Plaintiff filed her complaint, no discovery has occurred and there appears to be no possibility of her success as to her age discrimination claim. Plaintiff's motion for injunctive relief concerns apparent problems which may have arisen in connection with her attendance as a student at KCTCS, rather than anything connected with her application for employment there. Consequently, the Court concludes that Plaintiff has other avenues for resolving her complaints as a student rather than through a federal case filed based on her status as an applicant for employment. Plaintiff's request for Dr. Urekew's class records appears to

have no relevance to the discrimination claims which are the subject of this case.

II.

Defendant has moved for summary judgment on Plaintiff's claim of age discrimination based on the proposition that Title VII prohibits employers from discriminating on the basis of an individual's race, color, religion, sex or national origin, but not based on age. *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, fn. 4 (1982). In addition, Defendant has submitted an affidavit indicating that the person who obtained the position for which Plaintiff applied was in fact a 65-year-old man. The Court agrees with these arguments. Since Title VII does not allow for a claim of age discrimination and because Defendants actually hired a person older than Plaintiff, Plaintiff cannot possibly succeed on age discrimination claim.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Plaintiff's motion for summary judgment is DENIED.

IT IS FURTHER ORDERED that Plaintiff's motion for injunctive relief is DENIED.

IT IS FURTHER ORDERED that Plaintiff's motion to subpoena certain records of Dr. Urekew is DENIED.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiff's age discrimination claim is SUSTAINED and that claim is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the parties be allowed a discovery period of to and including July 9, 2012, in which to complete all discovery in this case. The Court further sets a deadline for any dispositive motions after completion of discovery as August 6, 2012.

cc: Sharon R. Heath, *Pro Se*
Counsel of Record