

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

TRACEY PITCHER

CIVIL ACTION

VERSUS

NUMBER 11-00537-FJP-DLD

HONORABLE JANET NAPOLITANO,
SECRETARY/U.S.DEPT/HS/FEMA

ORDER

This matter is before the court on a referral from the district court of plaintiff's motion for leave to proceed *in forma pauperis*. (rec.doc. 2) Upon review, the court notes that the application is deficient in that it is missing the first page, sections A through C, which would include the employment/income section. The court therefore must deny the motion, and order that plaintiff shall either pay the \$350.00 filing fee or file an amended motion for leave to proceed *in forma pauperis* with a completed application.

Moving on to plaintiff's complaint, plaintiff also will need to file an amended complaint to correct certain deficiencies noted by the court and as explained below.

The Complaint

On August 9, 2011, *pro se* plaintiff Tracey Pitcher filed a complaint against her former employer, Federal Emergency Management Agency ("FEMA"), complaining of racial discrimination, a hostile working environment, retaliation, and wrongful termination on December 5, 2009, for participating in prior "ERO" activity.¹ Although plaintiff brought this claim under Title VII of the Civil Rights Act, it is unclear whether or not plaintiff exhausted her administrative remedies before filing suit in federal court. For example, the complaint does not state whether she received a final agency decision on any of the complaints she made to the FEMA Office of Equal Rights. As plaintiff was an employee of FEMA, her

¹Upon information and belief, it appears that "ERO" refers to Equal Rights Office (FEMA Office of Equal Rights), and discrimination complaints are first handled by this office.

complaint would have been handled first by the agency. If she filed a formal complaint with the agency and was dissatisfied with the agency's final decision/order, she had the right to appeal the final decision/order to the EEOC, or in the alternative, to file suit in federal court. See, <http://www.fema.gov/pdf/oer/rights.pdf>.

In the event plaintiff received a final, unfavorable agency decision/order, plaintiff's complaint does not state whether she appealed the decision/or to the Equal Employment Opportunity Commission ("EEOC") and filed this suit within 90 days of the EEOC's final decision on her appeal, or if she directly filed this suit within 90 days of receipt of a final agency decision/order on an individual complaint.

Plaintiff should therefore be given an opportunity to amend her complaint to cure the defects in the original complaint to demonstrate that she exhausted her administrative remedies before filing suit in federal court.

Accordingly,

IT IS ORDERED that plaintiff's motion for leave to proceed *in forma pauperis* is **DENIED**. Plaintiff shall either pay the \$350.00 filing fee or file an amended motion for leave to proceed *in forma pauperis* within 14 days of this order.

IT IS FURTHER ORDERED that, within 30 days of this order, plaintiff shall file an amended complaint, attaching a copy of her final agency decision(s), and/or a copy of her EEOC decision(s). In the event plaintiff has not received a final agency decision or EEOC decision, she shall indicate same in the amended complaint.

Signed in Baton Rouge, Louisiana, on August 19, 2011.



MAGISTRATE JUDGE DOCIA L. DALBY