

No. 4:15-CV-235-JAR

This matter is before the Court on the application of Abeer Motan for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). After carefully reviewing the complaint [Doc. #1], the Court will order plaintiff to file an amended pleading according to the instructions set forth below.

Plaintiff brings this action pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e-5, and the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, et seq. Based on the allegations

contained in the Charge of Discrimination attached to the complaint [Doc. #1-1, p. 3], plaintiff claims that she was terminated from her employment based on her race, national origin, color, age, sex, religion, and genetic information. Despite the clear allegations outlined in the Charge of Discrimination, the complaint is difficult to read and, at times, is completely incoherent. In fact, the Court is unable to discern a clear set of factual allegations within the body of her entire complaint. Accordingly, plaintiff will be required to amend her complaint to conform to the pleading standards set forth in Federal Rules of Civil Procedure 8 and 10.

Discussion

A. Filing an Amended Complaint

Plaintiff is required to file an amended complaint, on a court-provided form, and it must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Rule 8(a) requires that a complaint contain a short and plain statement of the claim showing that the pleader is entitled to relief against the named defendant(s) and specifying the relief sought. Rule 10(b) requires that a party state all claims or defenses in separately numbered paragraphs, each limited as far as practicable to a single set of circumstances.

Plaintiff shall have thirty (30) days from the date of this Order to file her amended complaint. Plaintiff is warned that the amended complaint will **completely replace** the original complaint, and claims that are not re-alleged are deemed abandoned. E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005).

After the filing of plaintiff's amended complaint, the Court will review the pleading pursuant to 28 U.S.C. § 1915 for frivolousness, maliciousness and/or failure to state a claim. A claim must survive § 1915 review in order for plaintiff to proceed on those claims in this lawsuit.

B. Motion for Appointment of Counsel

Additionally, the Court will deny plaintiff's motion for appointment of counsel [Doc. #4] at this time. There is no constitutional or statutory right to appointed counsel in civil cases. Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are

complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005.

After considering these factors, the Court finds that the facts and legal issues involved in the case at bar are not so complicated that the appointment of counsel is warranted at this time.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**. See 28 U.S.C. § 1915(a)(1).

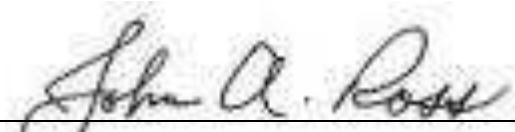
IT IS FURTHER ORDERED that the Clerk shall provide plaintiff a copy of a blank Employment Discrimination Complaint form.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint, consistent with the Court's instructions, within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [Doc. #4] is **DENIED, without prejudice**.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, this action will be dismissed without prejudice and without further notice to her.

Dated this 10th day of February, 2015.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE