

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

LARS ST, JOHN,)	CASE NO. 1:15 CV 1172
)	
Plaintiff,)	JUDGE JAMES S. GWIN
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
THE FRESH MARKET, <i>et al.</i> ,)	<u>AND ORDER</u>
)	
Defendants.)	

Plaintiff *pro se* Lars St. John brings this *in forma pauperis* Title VII action against Defendants The Fresh Market and the Equal Employment Opportunity Commission (“EEOC”). He alleges in the Complaint that he was subjected to harassment and discrimination during his employment at The Fresh Market based on his race and sex, and that his employment was subsequently terminated.

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the district court is required to dismiss an action under 28 U.S.C. §1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of Strongsville*,

99 F.3d 194, 197 (6th Cir. 1996).

While Plaintiff's claims against The Fresh Market may have arguable merit, the same cannot be said regarding his claims against the EEOC, which is not liable for its handling of Plaintiff's administrative charge. *See Scheerer v. Rose State College*, 950 F.2d 661, 662-63 (10th Cir.1991), *cert. denied*, 505 U.S. 1205 (1992); *McCottrell v. EEOC*, 726 F.2d 350, 351 (7th Cir.1984); *Ward v. EEOC*, 719 F.2d 311, 312-14 (9th Cir.1983), *cert. denied*, 466 U.S. 953 (1984).

Based on the foregoing, Defendant EEOC is **DISMISSED** pursuant to 28 U.S.C. § 1915(e), and the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from its dismissal could not be taken in good faith. Plaintiff's request to proceed *in forma pauperis* is granted, and the Clerk's Office is directed to forward the appropriate documents to the U.S. Marshal for service of process on The Fresh Market.

IT IS SO ORDERED.

Dated: September 15, 2015

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE