

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

BARBARA L. RUTLEDGE,  
Plaintiff,

vs.

Civil Action 2:11-CV-594  
Judge Marbley  
Magistrate Judge King

RESCARE CENTRAL OHIO,  
Defendant.

ORDER and  
REPORT AND RECOMMENDATION

Plaintiff Barbara L. Rutledge, who is proceeding without the assistance of counsel, seeks to bring this civil action without prepayment of fees or costs. Plaintiff's application for leave to proceed *in forma pauperis*, Doc. No. 1, is **GRANTED**. All judicial officers who render services in this action shall do so as if the costs had been prepaid. However, for the reasons that follow, it is recommended that the action be dismissed for lack of jurisdiction.

Plaintiff, who is 62 years old, alleges in her *Complaint* that, after receiving exemplary evaluations by a senior supervisor, she was transferred to the supervision of a younger supervisor who made complaints about plaintiff's performance. Plaintiff was thereafter transferred to a different facility, where she worked for the mother of that younger supervisor. Plaintiff alleges that she was not given a chance there, because the mother of the younger supervisor "proceeded to carry out the wishes of her daughter to get [plaintiff] fired from" defendant. *Complaint*, p.3. Plaintiff seeks monetary

damages.

Plaintiff does not indicate the basis of this Court's jurisdiction. Both parties appear to be residents of Ohio; the Court therefore lacks diversity jurisdiction under 28 U.S.C. §1332. Although plaintiff indicates her own age and refers to a "younger" supervisor, she does not allege that she was fired because of her age. Plaintiff also does not allege that she filed a charge of age discrimination with any authorized agency. It therefore does not appear that plaintiff intends to pursue a federal claim of age discrimination under the ADEA, 29 U.S.C. § 621 *et seq.* There is no suggestion in plaintiff's filings that she intends to pursue any other claim arising under federal law. It therefore appears that the Court lacks federal question jurisdiction under 28 U.S.C. § 1331.

It is therefore **RECOMMENDED** that the action be dismissed for lack of subject matter jurisdiction.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*.

*See Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

s/Norah McCann King  
Norah M<sup>c</sup>Cann King  
United States Magistrate Judge

July 11, 2011  
Date

