

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARGE JARRELLS,

Plaintiff,

v.

SELECT PUBLISHING, INC.

Defendant.

ORDER

00-C-0433-C

This is a civil action in which pro se plaintiff Marge Jarrells alleges that she was not hired by defendant Select Publishing, Inc. because of her race and age. Plaintiff seeks back pay and damages under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e, and the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34.

On November 12, 2002, plaintiff filed a motion for summary judgment, a brief in support of that motion and proposed findings of fact. However, plaintiff's proposed findings of fact do not comply with this court's procedures for filing motions for summary judgment for several reasons. First, the exhibits plaintiff submitted with her motion are unauthenticated photocopies of various documents. See Procedures to be Followed on Motions for Summary Judgment § I.C.1. Because these photocopies are not certified as true copies of the documents they purport to be or are not accompanied by an affidavit of a person attesting to their validity, they cannot be considered as evidence and relied on to support plaintiff's proposed findings of fact. In fact, some of the documents appear to have been altered because

they have notations all over them. If plaintiff were to submit a stipulation from defense counsel that the documents are true copies of the documents they purport to be, then the court may consider them in ruling on a motion for summary judgment.

Second, plaintiff's brief in support of her motion for summary judgment contains facts that have not been proposed. For example, nowhere in her proposed facts does plaintiff state that she is an African-American female born on June 16, 1941, even though her brief begins with that fact. Plaintiff should make sure that every fact she uses in her brief has been set forth as a proposed finding of fact, which, in turn, is followed by a citation to admissible evidence in the record to support that fact. To illustrate, in order for plaintiff's age and race to be found as fact, she must propose as a fact that she is an African-American female born on June 16, 1941. This factual statement must be followed by a cite to admissible evidence, for example, plaintiff's own affidavit in which she avers that she is an African-American female born on June 16, 1941. In addition, plaintiff should be aware that an affidavit must be sworn to in writing under penalty of perjury. See 28 U.S.C. § 1746 ("I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).").

Third, each proposed fact must be numbered. See id. at § I.B.1. This makes it easier for the non-moving party to respond and moving party to reply in an orderly fashion.

Finally, plaintiff should be aware that a motion for summary judgment is appropriate only when the moving party believes that the undisputed facts will show that the party is entitled to judgment as a matter of law. If plaintiff believes that defendant will dispute with competent evidence even one

material fact plaintiff proposes, then summary judgment is not proper and the issue should be permitted to go to trial. In any event, because plaintiff's motion for summary judgment does not comply with this court's procedures, it will be denied without prejudice.

ORDER

IT IS ORDERED that plaintiff Marge Jarrells's motion for summary judgment is DENIED without prejudice.

Entered this 15th day of November, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge