

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

MELICHSIA BOSS,

Petitioner,

v.

ROCK COUNTY, WISCONSIN,

Respondent.

ORDER

02-C-0678-C

This is a proposed civil action for monetary relief in which petitioner Melichsia Boss alleges that respondent Rock County, Wisconsin, harassed her and terminated her employment because she is African American, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e. Petitioner also alleges that she was retaliated against for filing a race discrimination charge with the Equal Employment Opportunity Commission. She has asked for leave to proceed in forma pauperis and filed an affidavit of indigency in support of that request. According to petitioner's affidavit of indigency, she has a *net* monthly income of \$1,274. She has one dependent, and no substantial assets or unusual debts.

The court's standard for determining indigency is as follows: from the petitioner's

annual *gross* income, the court subtracts \$2,820 for each dependent. If the resulting balance is less than \$11,500, the petitioner may proceed without prepaying any part of the fees and costs for filing her complaint. If the balance falls between \$11,500 and \$15,000, the petitioner must pay one-half the fee, or \$75. Otherwise, the petitioner must pay all of the \$150 filing fee.

Using petitioner's net income as a reference point, it is unlikely that her *gross* income, less \$2820 for her one dependent, will result in a balance less than \$15,000. Therefore, I will deny her request for leave to proceed in forma pauperis in this action. However, if petitioner can show that she does not have a gross income too large to qualify for pauper status using the standard described in this order, I will reconsider her request for leave to proceed in forma pauperis.

Whether petitioner pays the full filing fee or renews her request to proceed in forma pauperis with additional information about her gross annual income, she will have to supplement her complaint with a copy of her right to sue letter from the Equal Employment Opportunity Commission. This is because obtaining a right to sue letter is a jurisdictional prerequisite to petitioner's filing of this suit. See Patterson v. McLean Credit Union, 491 U. S. 164, 181 (1989) (plaintiff may bring Title VII action in federal court only after exhausting administrative procedures set out in 42 U.S.C. § 2000e-5 and obtaining right to sue letter from EEOC); see also EEOC v. Harris Chemin, Inc., 10 F.3d 1286, 1288 n.3 (7th

Cir. 1993); Bullard v. Sercon Corp., 846 F.2d 463, 467 (7th Cir. 1988) (citing 42 U.S.C. § 2000e-5(e)).

ORDER

IT IS ORDERED that petitioner Melichsia Boss's request for leave to proceed in forma pauperis in this action is DENIED. Petitioner may have until January 10, 2003, in which to

1) pay the full \$150 filing fee or renew her request to proceed in forma pauperis with documentation showing she qualifies for indigent status; and

2) provide this court with a copy of her Equal Employment Opportunity Commission right to sue letter.

If, by January 10, 2003, petitioner fails to pay the fee or submit the necessary documents, the clerk of court is directed to enter judgment dismissing this case without prejudice for petitioner's failure to prosecute it.

Entered this 19th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge