

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

IFTIKHAR AHMED MEMON,

Plaintiff,

v.

WAUKESHA COUNTY TECHNICAL
COLLEGE,

Defendant.

OPINION and ORDER

13-cv-704-jdp

Plaintiff Iftikhar Ahmed Memon has brought this action alleging that defendant Waukesha County Technical College violated Title VII of the Civil Rights Act and the Age Discrimination in Employment Act by discriminating against him based on his race and his age when it refused to interview him for a position as an economics instructor three times. In an August 27, 2014 order, I denied defendant's motion to dismiss the amended complaint regarding these claims. Dkt. 31. In doing so I noted, "Although plaintiff references his gender in his amended complaint, he was not allowed to proceed on a sex discrimination claim and he has not filed a motion for reconsideration seeking to proceed on such a claim." *Id.* at 1 n.2. Now plaintiff has filed a document titled "motion to consider my gender," Dkt. 32, and a motion for summary judgment, Dkt. 33. I will deny both of these motions.

First, with regard to plaintiff's request to proceed on a Title VII gender discrimination claim, defendant persuasively argues that plaintiff has failed to meet the requirement that he exhaust that claim with the Equal Employment Opportunity Commission. "[G]enerally, Title VII claims that were not included in an EEOC charge are barred." *Jones v. Res-Care, Inc.*, 613

F.3d 665, 670 (7th Cir. 2010). Plaintiff admits that he “must have missed to click on that empty box of Gender” regarding his EEOC charge, dkt. 32 at 2. His failure to bring a gender discrimination charge runs deeper than that; not only did plaintiff fail to check the “sex” box on the charge form, he specifically stated in the allegations section of the form that he was bringing claims for racial, national origin, religion, and age discrimination, but did not mention gender whatsoever. Dkt. 42 Exh A.

“[I]f certain claims are not included in an EEOC charge, a plaintiff can still bring them if they are like or reasonably related to the allegations of the EEOC charge and growing out of such allegations,” *Moore v. Vital Products, Inc.*, 641 F.3d 253, 256-57 (7th Cir. 2011) (internal quotations and citations omitted). *See also Jones*, 613 F.3d at 670 (“[T]here must be a reasonable relationship between the allegations in the charge and the claims in the complaint, and it must appear that the claim in the complaint can reasonably be expected to grow out of an EEOC investigation of the allegations in the charge.”). However, plaintiff’s complete failure to allege that he was discriminated against because of his gender is insufficient to meet this standard. *See, e.g., Ajayi v. Aramark Business Services, Inc.*, 336 F.3d 520, 528 (7th Cir. 2003) (“[I]f [plaintiff] thought she had been subject to age discrimination, she could have, and should have said so in her charge. Without this basic information, there is simply no reason to think that any EEOC investigation would have uncovered the alleged age bias.”); *Kilchrist v. Eli Lilly & Co.*, 2004 WL 1490411, at *3 (S.D. Ind. June 30, 2004) (plaintiff unable to bring gender discrimination claim where his charge “does not imply that women are treated better than men.”). Plaintiff did not raise his gender with the EEOC, and the EEOC did not investigate any allegations of gender discrimination. Therefore, there is no basis to consider plaintiff’s gender discrimination claim in this lawsuit.

As for plaintiff's summary judgment motion, it must be denied because plaintiff has failed to follow the court's procedures for filing such motions. Under these procedures, a copy of which was attached to the preliminary pretrial conference order in this case, each party submits briefing as well as numbered "proposed findings of fact" setting forth each factual proposition the party wishes to establish and citing attached supporting evidence. *See* Procedure to Be Followed on Motions for Summary Judgment, Dkt. 17. Plaintiff's submissions fall far short of complying with the court's procedures, as he does not provide proposed findings of fact citing attached evidence. Nor does he provide the type of coherent, detailed statement of his claims necessary to set forth a prima facie case for discrimination. As defendant points out, plaintiff "fails to include with his motion any evidence demonstrating that he was qualified for the position he sought. Indeed, [plaintiff] neither identifies the minimum qualifications for the position, nor does he present evidence showing that he met those qualifications."¹ Because plaintiff's submissions neither comply with the court's procedures nor present a coherent narrative detailing the fundamental components of his claims, I will deny his motion for summary judgment without prejudice. I will attach a

¹ Defendant also suggests that plaintiff failed to properly authenticate the evidence supporting his claim. Generally, documents are authenticated for purposes of summary judgment when they are attached to an affidavit to which a person who has personal knowledge of what the exhibits are declares under penalty of perjury or swears under oath that the exhibits are true and correct copies of the documents they appear to be. Plaintiff should take care to follow this procedure. On the other hand, defendant should be aware that to the extent that defendant provides plaintiff documents during discovery, those documents may be considered authenticated by virtue of that production. *See, e.g., United States v. Brown*, 688 F.2d 1112, 1116 (7th Cir. 1982). As the case proceeds, when plaintiff submits documents provided to him by defendant, defendant may need to explain why it believes the documents are not authentic copies of its own records.

copy of the court's summary judgment procedures to this order; plaintiff should take care to follow these procedures in the future.

The remainder of the schedule is set as follows:

- Disclosure of plaintiff's expert witnesses: December 17, 2014
- Disclosure of defendant's expert witnesses: January 19, 2015
- Deadline for filing dispositive motions: February 2, 2015
- Discovery cutoff: May 20, 2015
- Final pretrial submissions and disclosures: May 27, 2015
- Responses to those submissions: June 10, 2015
- Final pretrial conference: June 25, 2015 at 4:00 p.m.
- Trial: June 29, 2015 at 9:00 a.m.

ORDER

IT IS ORDERED that:

1. Plaintiff Iftikhar Ahmed Memon's "motion to consider [his] gender," Dkt. 32, is DENIED.
2. Plaintiff's motion for summary judgment, Dkt. 33, is DENIED without prejudice.
3. The remainder of the schedule is set as discussed above.

Entered this 24th day of November, 2014.

BY THE COURT:

/s/
JAMES D. PETERSON
District Judge