

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

ANTUAN PULLIAM,

Petitioner,

v.

UNITED AUTO WORKERS,

Respondent.

ORDER

04-C-123-C

On March 3, 2004, petitioner Antuan Pulliam filed a proposed complaint in which he alleged that respondent United Auto Workers refused to prosecute his grievance because of his race and in retaliation for complaining about racial harassment. He requested leave to proceed in forma pauperis under 29 U.S.C. § 1915.

In an order dated March 8, 2004, I concluded that petitioner qualified for indigent status, but I denied his request to proceed because his complaint did not include a request for relief as required by Fed. R. Civ. P. 8(a)(3). The dismissal was without prejudice and petitioner has now filed a new complaint in which he has corrected the deficiency. He seeks \$1,000,000 in lost future earnings and pain and suffering.

Petitioner's allegations state a claim under the National Labor Relations Act, 29

U.S.C. § 1958, which imposes a duty of fair representation on unions. Vaca v. Sipes, 386 U.S. 171 (1967) (recognizing cause of action under § 158 when union's conduct is arbitrary, discriminatory or in bad faith). Accordingly, I will allow petitioner to proceed in forma pauperis on his claim.

ORDER

IT IS ORDERED that

1. Petitioner's request for leave to proceed in forma pauperis is GRANTED on his claim that respondent United Auto Workers breached its duty of fair representation by refusing to prosecute his grievance because of his race and in retaliation for complaining about racial harassment.

2. For the remainder of this lawsuit, petitioner must send respondent a copy of every paper or document that he files with the court. Once petitioner has learned what lawyer will be representing respondent, he should serve the lawyer directly rather than respondent. The court will disregard any documents submitted by petitioner unless petitioner shows on the court's copy that he has sent a copy to respondent or to respondent's attorney.

3. Petitioner should keep a copy of all documents for his own files. If petitioner does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

4. The United States Marshal will serve petitioner's complaint on respondent and respondent will have 20 days from the date of service of the complaint upon it in which to mail a responsive pleading to petitioner and file it with the court. Shortly thereafter, the court will schedule a telephonic preliminary pretrial conference at which deadlines for bringing this case to resolution will be set and at which petitioner may ask any questions he might have about this court's procedures.

Entered this 15th day of March, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge