

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

KATHLEEN ERMER,

Petitioner,

v.

TAYLOR COUNTY, WISCONSIN;
SUSAN HARDY, Director,
Taylor County Human Services; and
DAN BROST,

Respondents.

ORDER

05-C-346-C

Petitioner Kathleen Ermer requests leave to proceed in forma pauperis in this civil action for injunctive and monetary relief brought for violations of Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12134. From her affidavit of indigency, I conclude that petitioner qualifies for indigent status. Nevertheless, before petitioner may proceed in forma pauperis, I must determine whether her action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

In her complaint, petitioner alleges that her therapist's supervisor, respondent Dan

Brost, directed her therapist, Anthony Schmidt, to advise plaintiff that her “assistance dog” would no longer be allowed in the Human Services building. On March 22, 2005, when petitioner arrived for an appointment, she was told that her assistance dog would have to stay in her car if she wanted to stay for her appointment because another client was afraid of her dog. When petitioner attempted to explain that she was entitled to her dog under the ADA, respondent Brost told her she should be more sensitive to other people’s problems and that petitioner did not need her dog while she was in the building. Petitioner discussed the matter with Susan Koerner and another person at the Taylor County Human Resources Department and Taylor County board office and no “appropriate” action was taken.

The Americans with Disabilities Act prohibits discrimination against qualified persons with disabilities. Title II of the act is concerned with public entities. It prohibits such entities from excluding qualified persons with disabilities from participation in or receiving the benefits of the services, programs or activities offered by the entity and from discriminating against qualified disabled persons. 42 U.S.C. § 12132. “Public entity” includes any department, agency or instrumentality of a state or local government. 42 U.S.C. § 12131(1)(B).

Petitioner does not allege facts in her complaint to explain what her disability is. However, from her allegation that she has an assistance dog, I will assume for the purpose of this order that she is a qualified individual with a disability and therefore protected from

discrimination under the Americans with Disabilities Act. I will assume also that the persons who kept her dog from entering the building were employees of a state or local governmental entity. Petitioner will be granted leave to proceed in forma pauperis and her complaint will be forwarded to the United States Marshal for service on the defendants.

ORDER

IT IS ORDERED that petitioner Kathleen Ermer's request for leave to proceed in forma pauperis is GRANTED.

For the remainder of this lawsuit, petitioner must send respondents a copy of every paper or document that she files with the court. Once petitioner has learned what lawyer will be representing respondents, she should serve the lawyer directly rather than respondents. The court will disregard any documents submitted by petitioner unless petitioner shows on the court's copy that she has sent a copy to respondents or to respondents's attorney. In addition, petitioner should keep a copy of all documents for her own files. If petitioner does not have access to a photocopy machine, she may send out

identical handwritten or typed copies of her documents.

Entered this 21st day of June, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge