

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

PEGGY ANN DUFF EL,

Petitioner,

v.

J.C. PENNEY, INC.,

Respondent.

ORDER

05-C-742-C

In this proposed civil action for monetary relief, petitioner Peggy Duff alleges that respondent J.C. Penney, Inc. terminated her employment because of her age and race or ethnicity in violation of Title VII of the Civil Rights Act of 1964. Petitioner has requested leave to proceed in forma pauperis and has supported her request with an affidavit of indigency.

To determine whether a petitioner qualifies for indigent status, the court uses the following calculation: From petitioner's annual gross income, the court subtracts \$3400 for each dependent, excluding the petitioner. If the balance is less than \$15,000, the petitioner may proceed without any prepayment of fees and costs; if the balance is greater than \$15,000 but less than \$28,000, the petitioner must prepay half the fees and costs; and if the

balance is greater than \$28,000, the petitioner must prepay all fees and costs. Substantial assets or debts require individual consideration.

Petitioner has two dependents. In her affidavit, she lists child support (in an undisclosed amount) as her sole source of income. She owns a home valued at approximately \$146,000. (Petitioner does not indicate how much, if any, equity she has in her home.) She does not have any unusual debts.

From the information petitioner has provided, I am unable to conclude that she qualifies for indigent status. However, I note that petitioner has completed the affidavit of indigency this court provides to incarcerated inmates, rather than the more detailed affidavit normally given to non-incarcerated persons. Therefore, before I rule on petitioner's motion, I will provide her with the opportunity to supplement her request for leave to proceed in forma pauperis by completing the enclosed affidavit of indigency for non-incarcerated persons. In completing the affidavit, she should take care to show from where she receives the means to pay for her basic necessities, such as food, clothing and shelter (if her sole income is child support, how much does she receive monthly), and to indicate how much, if any, equity she has in her home.

ORDER

IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis in

this action is STAYED. Petitioner may have until January 5, 2007, in which to submit a supplemental affidavit showing the dollar amounts of her monthly income and debts, as well as the amount of equity, if any, she has in her home. If petitioner fails to provide the court with this information by January 5, 2007, her request for leave to proceed in forma pauperis will be denied.

Entered this 21st day of December, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge