

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

SUSAN ANN SANDS-WEDEWARD,

Plaintiff,

v.

PATRICK R. DONAHOE, Postmaster General,
United States Postal Service (Great Lakes Area) agency,

Defendant.

OPINION and ORDER

12-cv-266-bbc

This is a civil action for monetary relief in which plaintiff Susan Ann Sands-Wedeward, who is proceeding pro se, contends that defendant Patrick Donahoe, Postmaster General of the United States Postal Service, is liable for injuries she suffered while working as an employee of the United States Postal Service. Now before the court is defendant's motion to dismiss plaintiff's complaint for failure to state a claim upon which relief may be granted, dkt. #12, as well as plaintiff's motion requesting that the court construe all of her filings to date as making up one composite complaint. Dkt. #17.

As discussed below, I am denying plaintiff's motion and granting defendant's motion. If plaintiff wishes to assert claims against defendant, she must file one complaint that complies with the Federal Rules of Civil Procedure. None of plaintiff's filings satisfy the rules or provide fair notice to defendant of the claims she is asserting against him or the grounds supporting those claims. Therefore, I am dismissing plaintiff's amended complaints. Plaintiff may have one final opportunity to file a complaint that complies with the federal rules.

DISCUSSION

On August 7, 2012, I granted defendant's motion to dismiss plaintiff's original complaint because it did not comply with Fed. R. Civ. P. 8 and did not state a claim upon which relief could be granted. Dkt. #10. Plaintiff's complaint contained vague allegations about a variety of injuries she suffered during and after her employment with the postal service, but it was impossible to tell from plaintiff's complaint what specific claims she was asserting against defendant, why she believed defendant should be liable for any injuries she suffered and what relief she was seeking. It appeared that plaintiff was attempting to challenge a decision regarding her worker's compensation claim, but nonconstitutional monetary challenges to a worker's compensation benefit decision cannot be challenged in court. 5 U.S.C. § 8128(b); Czerkies v. United States Dept. of Labor, 73 F.3d 1435, 1443 (7th Cir. 1996) (plaintiffs may bring constitutional challenges to agency decisions, but "garden-variety claim[s] for benefits [are] plainly barred by 5 U.S.C. § 8128(b)"). Additionally, plaintiff's complaint contained allegations about harassment by her coworkers, but she did not connect those allegations to any claim against defendant. I gave plaintiff an opportunity to file an amended complaint to clarify her claims and to provide more factual support for them.

Plaintiff filed an amended complaint on August 9, 2012, alleging, among other things, that her worker's compensation claim had been denied improperly, that her coworkers had harassed her and that defendant had discriminated against her because of her disability. Dkt. #11. On August 24, defendant filed a motion to dismiss plaintiff's amended complaint for failure to state a claim upon which relief may be granted. Dkt. #12. Plaintiff responded on August 29, arguing that her case should not be dismissed and submitting a new filing that she

said should be construed as another “amended complaint.” Dkt. #14. Defendant submitted a reply brief on August 30, arguing that plaintiff had not responded to the arguments raised in his motion to dismiss and that her most recent “amended complaint” should not be considered as such. Dkt. #15.

On September 14, 2012, a telephonic preliminary pretrial conference was held. During the conference, plaintiff objected to defendant’s argument that her most recent filing should not be construed as an amended complaint. Magistrate Judge Crocker set a deadline for plaintiff to file any arguments in support of her suggestion that her August 29 filing should be treated as an amended complaint.

Plaintiff filed a lengthy response on September 18, 2012, devoting only one paragraph to the issue on which Judge Crocker granted plaintiff the opportunity to file an argument. Dkt. #17. She stated that the remainder of the filing was another “complaint,” and proceeded to provide details about her ex-husband’s behavior toward her, her back injury and treatment by her coworkers. Defendant responded to plaintiff’s latest “complaint” by arguing that the court should disregard it. Dkt. #18.

I will not consider all of plaintiff’s various filings as composing one complaint. When I dismissed plaintiff’s initial complaint, I gave her leave to file one amended complaint that provided fair notice to defendant of the claims against him and the grounds on which those claims are based. This was not an invitation for plaintiff to file multiple documents in which she alleged new facts and asserted new legal theories. Under Rule 8, a complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “Each allegation must be simple, concise, and direct.” Rule 8(d)(1). “The

primary purpose of these rules is to give defendants fair notice of the claims against them and the grounds supporting the claims.” Stanard v. Nygren, 658 F.3d 792, 797 (7th Cir. 2011) (citations omitted).

Plaintiff’s pleadings are not plain, simple, concise or direct and they do not give defendant fair notice of the claims against him. Plaintiff’s complaint has been a moving target, making it impossible for defendant to respond properly to her claims. Plaintiff’s filings lack organization and are difficult to follow. Id. at 798 (“[W]here the lack of organization and basic coherence renders a complaint too confusing to determine the facts that constitute the alleged wrongful conduct, dismissal is an appropriate remedy.”). Even after reading through all of plaintiff’s filings, it is not clear what claims she wishes to bring against defendant. Part of the problem is that plaintiff assumes that the court and defendant are familiar with the details relevant to her claims. She refers to various people using only their first names and without providing any information about who the people are or why their actions or opinions are relevant to any claim against defendant. She also makes several references to her ex-husband, other family members, a patent dispute, the arrest of her coworkers and her attorney’s murder, but it is not at all clear how these allegations relate to any claim against defendant.

Another problem is that plaintiff makes no attempt to explain why she believes *defendant* is responsible for all of the injuries she alleges. She makes several complaints about adverse treatment by doctors, coworkers, the Office of Workers’ Compensation Programs, her ex-husband and her union. However, nothing about plaintiff’s allegations suggests that defendant could be held liable for any actions taken by these people or entities.

Because plaintiff’s amended complaint does not satisfy the federal rules, I will grant

defendant's motion to dismiss it. I will give plaintiff one final opportunity to file an amended complaint that provides notice to defendant of the claims against him. In drafting her amended complaint, plaintiff should remember the following:

- Plaintiff's complaint must consist of one document that sets forth the specific claims she is asserting against defendant and the factual basis supporting those claims.
- Plaintiff should draft her complaint as if she were telling a story to people who know nothing about her situation. She should not assume that defendant or the court is familiar with any of the background information or people who are relevant to her claims.
- Plaintiff should identify clearly the facts that form the basis for her claims against defendant and should set forth her allegations in separate, numbered paragraphs using short and plain statements.
- Plaintiff should include only those facts that are relevant to her claims against defendant. She should not include facts about how her doctors, nurses, neighbors, ex-husband or anyone else acted unless it is directly relevant to her claims against defendant.
- Plaintiff should identify clearly what rights she believes were violated and should address each right separately. For example, if plaintiff believes that defendant violated her right to be free from disability discrimination, she should explain what her disability was, what discriminatory actions defendant took against her and why she believes those actions were connected to her disability.
- Plaintiff should remember that defendant cannot be held liable for the actions of people or entities over which he had no authority or control.
- Plaintiff should not try to assert a claim challenging the rejection of her worker's compensation claim unless she is asserting that defendant violated a constitutional right in connection with her worker's compensation claim.

Plaintiff may have until October 30, 2012 to submit an amended complaint. If plaintiff's amended complaint fails to comply with the federal rules of procedure and fails to state a claim against defendant, I will dismiss her complaint with prejudice. If plaintiff fails to submit an amended complaint by October 30, I will direct the clerk of court to enter judgment in favor of

defendant and close the case.

ORDER

IT IS ORDERED that

1. Plaintiff Susan Ann Sands-Wedeward's motion requesting the court to consider all of her filings as a composite pleading, dkt. #17, is DENIED.

2. Defendant Patrick Donahoe's motion to dismiss plaintiff complaint for failure to comply with Fed. R. Civ. P. 8, dkt. #12, is GRANTED. Plaintiff may have until October 30, 2012 to submit an amended complaint. If plaintiff's amended complaint fails to comply with the federal rules of procedure or fails to state a claim against defendant, I will dismiss her complaint with prejudice. If plaintiff fails to submit an amended complaint by October 30, I will direct the clerk of court to enter judgment for defendant and close this case.

Entered this 18th day of October, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge