

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTHONY LEWIS,

Plaintiff,

vs.

Case No. 04-4134-RDR

FOUR B CORPORATION,
et al.,

Defendants.

MEMORANDUM AND ORDER

This case is before the court upon an amended complaint alleging a violation of Title VII of the Civil Rights Act of 1964 on the basis of employment discrimination and retaliation. The amended complaint also asserts a claim under 42 U.S.C. § 1983 on the basis of the alleged violation of plaintiff's first amendment rights. The § 1983 claim was not part of the original complaint. Plaintiff proceeds pro se.

A motion to dismiss two individual defendants, Ron Giangreco and Tom Wiseman, is pending before the court. The motion was filed prior to the filing of the amended complaint. The motion asserts that the Title VII claims against the individual defendants, who were supervisors with plaintiff's former employer, defendant Four B Corporation, should be dismissed because the claims are redundant with the claims against Four B Corporation and because the individual defendants were not named in any administrative charge of discrimination. In a reply

brief in support of the motion to dismiss, a collateral estoppel argument is also made.

For the reasons explained by the Tenth Circuit in Haynes v. Williams, 88 F.3d 898, 899 (10th Cir. 1996) and by Judge Crow in similar litigation filed by plaintiff, Lewis v. 4B Corporation, 2004 WL 1834641, Case No. 03-4194 (D.Kan. 5/12/04), the court shall dismiss the Title VII claims against defendants Wiseman and Giangreco. See also Tenney v. Iowa Tribe of Kansas, 243 F.Supp.2d 1196, 1199 (D.Kan. 2003). We do not reach the issues regarding administrative exhaustion or collateral estoppel.

The defendants have also asked for an award of costs, including reasonable attorney's fees. On the basis of the record as it currently stands, the court shall deny this request without prejudice to it being raised later in these proceedings.

IT IS SO ORDERED.

Dated this 24th day of May, 2005 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge