

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

| | | |
|-------------------------------|---|------------------------|
| ANNIE LUCILE LIVINGSTON, |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION |
| |) | |
| v. |) | No. 18-2210-KHV |
| |) | |
| UNIVERSITY OF KANSAS HOSPITAL |) | |
| ASSOCIATION, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

MEMORANDUM AND ORDER

Annie Lucile Livingston filed suit against the University of Kansas Hospital Association, alleging that it discriminated against her on the basis of race and religion in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e *et seq.*, and retaliated against her for filing this lawsuit. On March 25, 2020, the Court sustained defendant’s motion for summary judgment on all claims. Plaintiff appealed. See Notice Of Appeal (Doc. #90) filed April 23, 2020. This matter is before the Court on plaintiff’s Motion To Proceed Without Prepayment Of Fees (Doc. #91) and plaintiff’s Motion For Appointment Of Counsel And Declaration Of Good Faith Efforts To Obtain Counsel (Doc. #92), both filed April 23, 2020. For reasons stated below, the Court sustains plaintiff’s motion to proceed without prepayment of fees and overrules her motion to appoint counsel.

I. Motion To Proceed Without Prepayment Of Fees (Doc. #91)

Based on plaintiff’s affidavit which indicates that her monthly expenses significantly exceed her monthly income, the Court is satisfied that under Rule 24(a)(1)(A), Fed. R. App. P., plaintiff financially qualifies to proceed without prepayment of fees. In addition, the Court finds that plaintiff’s appeal is taken in good faith. See Fed. R. App. P. 24(a)(4)(B); Coppedge v. United

States, 369 U.S. 438, 448 (1962) (good faith is objective standard measured by whether appeal is “frivolous” or lacks “rational argument on the law or facts”). Accordingly, the Court sustains plaintiff’s motion to proceed without prepayment of fees.

II. Motion To Appoint Counsel (Doc. #92)

Plaintiff requests that the Court appoint counsel for her on appeal. Because plaintiff has already filed a notice of appeal, she should direct her request to the Tenth Circuit Court of Appeals. Accordingly, the Court overrules plaintiff’s request.

IT IS THEREFORE ORDERED that plaintiff’s Motion To Proceed Without Prepayment Of Fees (Doc. #91) filed April 23, 2020 is **SUSTAINED**.

IT IS FURTHER ORDERED that plaintiff’s Motion For Appointment Of Counsel And Declaration Of Good Faith Efforts To Obtain Counsel (Doc. #92) filed April 23, 2020 is **OVERRULED**.

Dated this 29th day of April, 2020 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge