

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY

Kimberly Babb et al. v. Christian Heights Nursing Home et al.

Civil Action No. 5:24-cv-166-BJB · No. 5:24-cv-166-BJB · Decided December 18, 2025

SUMMARY

The United States District Court for the Western District of Kentucky dismisses Kimberly Babb’s ADEA and ADA claims under 28 U.S.C. § 1915(e)(2)(b)(ii) for failure to state a claim. The court permits her Title VII discrimination and retaliation claims against Christian Heights Nursing Home and Rehabilitation to continue and directs service of process. The court also refers litigation-planning and nondispositive matters to a magistrate judge.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky
JURISDICTION	United States District Court for the Western District of Kentucky
DECIDED	December 18, 2025
DOCKET	5:24-cv-166-BJB
DISPOSITION	dismissed
PROCEDURAL POSTURE	On initial review of a pro se amended employment-discrimination complaint under 28 U.S.C. § 1915(e)(2), the court considered whether the amended allegations stated plausible claims under the ADEA and ADA.
STANDARD OF REVIEW	The court screened the pro se complaint under 28 U.S.C. § 1915(e)(2)(b)(ii), accepting well-pleaded factual allegations as true and determining whether the allegations plausibly stated claims on which relief could be granted.
PRECEDENTIAL VALUE	unpublished district court memorandum and order; nonprecedential
PARTIES	Kimberly Babb et al. v. Christian Heights Nursing Home et al.

TOPICS

- employment discrimination
- age discrimination
- ada / disability
- pleadings
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the amended complaint stated a plausible claim under the Age Discrimination in Employment Act when it alleged only that Babb was older than forty and contained no facts suggesting age-based discrimination.
2. Whether the amended complaint stated a plausible claim under the Americans with Disabilities Act when it alleged medical conditions but no facts showing failure to accommodate, disability-based adverse action, employer knowledge, a request for accommodation, or qualification for the job.

HOLDINGS

1. An ADEA claim does not require a plaintiff to establish a prima facie case at the pleading or initial-screening stage, but the complaint must allege sufficient factual content to support a reasonable inference that age discrimination occurred. Alleging only that the plaintiff is over forty is insufficient.
2. Alleging medical conditions that may qualify as disabilities is insufficient to state an ADA claim without factual allegations showing, among other things, that the employer failed to accommodate the disability or took adverse action because of it.

KEY QUOTATIONS

“plaintiffs need to allege some facts that would tend to show direct or indirect age discrimination—even though they don’t have to establish all elements of their case to survive initial review.” (PageID #: 83–84)

“Because Babb has added no new information related to her ADEA claim, the only such factual allegation is her age—meaning Babb has failed to state a plausible claim under the ADEA, despite the opportunity to amend.” (PageID #: 94–95)

FACTUAL BACKGROUND

Babb alleged that she was over forty and had PTSD, depression, anxiety, and knee and back problems. Her amended complaint added that she is African American and Black, but it did not add facts connecting her age to discrimination or showing that Christian Heights failed to accommodate a disability or took adverse action because of a disability. The court had already determined that her Title VII discrimination and retaliation claims could continue.

PROCEDURAL HISTORY

The court previously allowed Babb's Title VII discrimination and retaliation claims to continue but required more specific allegations for her ADEA and ADA claims. Babb filed an amended complaint that added her race and color but no new facts concerning age discrimination or disability discrimination. The court dismissed the ADEA and ADA claims while allowing the Title VII claims against Christian Heights Nursing Home and Rehabilitation to continue, directing service of process and referring nondispositive matters to a magistrate judge.

DISPOSITION

dismissed

CASES CITED

- Mickey v. Zeidler Tool & Die Co., 516 F.3d 516, 521 (6th Cir. 2008)
- Keys v. Humana, Inc., 684 F.3d 605, 609–10 (6th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009)

OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF KENTUCKY PADUCAH DIVISION KIMBERLY BABB et al. PLAINTIFFS v. CIVIL ACTION NO. 5:24-cv-166-BJB CHRISTIAN HEIGHTS NURSING HOME et al. DEFENDANTS MEMORANDUM AND ORDER On initial review of pro se Plaintiff Kimberly Babb’s complaint under 28 U.S.C. § 1915(e)(2), the Court determined that Babb’s discrimination and retaliation claims under Title VII of the Civil Rights Act of 1964 against her employer, Defendant Christian Heights Nursing Home and Rehabilitation, would continue.

DN 14. Given the complaint’s failure to allege facts showing liability under the Age Discrimination in Employment Act of 1967 (ADEA) and Americans with Disabilities Act of 1990 (ADA), however, the Court ruled that more specific allegations were necessary for those claims to proceed and provided Babb an opportunity to file an amended complaint. Id. at PageID #: 87.

She has filed an amended complaint, DN 17,¹ but it adds no new information except her race, which Babb states is “African American,” and her color, “Black.” Id. at PageID #: 94–95. While potentially relevant to her Title VII discrimination and retaliation claims, the Court already ruled that those would continue. DN 14 at PageID #: 83.

Because the complaint, even as amended and read generously, lacks factual allegations that would establish ADEA and ADA liability if proven true, the Court dismisses those claims under § 1915(e)(2). As to the ADEA, the Court previously explained that plaintiffs need to allege some facts that would tend to show direct or indirect age discrimination—even though they don’t have to.¹ The Court cites to the amended complaint at DN 17 but notes that a duplicate of the amended complaint was docketed a few days later at DN 18. establish all elements of their case to survive initial review.

Memorandum Opinion and Order at PageID #: 83–84. Neither Babb’s original nor her amended complaint refer to any age-based discrimination; they just allege that she was older than forty.² And the Court already ruled that her age alone was insufficient to state a claim. See DN 14 at PageID #: 84. True, ADEA plaintiffs needn’t prove every element or establish a “prima facie case” to survive pro se screening or a motion to dismiss.

See *Mickey v. Zeidler Tool & Die Co.*, 516 F.3d 516, 521 (6th Cir. 2008) (ADEA claims are subject to McDonnell Douglas burden shifting); *Keys v. Humana, Inc.*, 684 F.3d 605, 609 (6th Cir. 2012) (prima facie case under McDonnell Douglas not necessary at motion-to-dismiss stage). But these claims must still meet a “plausibility” standard and “allege sufficient ‘factual content’ from which a court, informed by its ‘judicial experience and common sense,’ could ‘draw the reasonable inference’” that age discrimination has occurred.

Keys, 684 F.3d at 610 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 679 (2009)). Because Babb has added no new information related to her ADEA claim, the only such factual allegation is her age—meaning Babb has failed to state a plausible claim under the ADEA, despite the opportunity to amend. Similarly, Babb’s amended complaint provides no additional information about her ADA claim.

As the Court previously explained, assuming that Babb’s alleged PTSD, depression, anxiety, and knee and back problems are disabilities within the meaning of the ADA, she has still failed to allege any facts that, if proven true, would show that the employer failed to accommodate any disability or took adverse action because of it. She still hasn’t alleged, for example, whether she could perform the job with or without accommodations; whether Christian Heights was aware of her disability; whether she asked for accommodation or was otherwise 2 The protections of the ADEA apply to employees older than forty.

See 29 U.S.C. § 631(a). qualified for her job; whether she was terminated because of her disability; and who replaced her at that job. DN 14 at PageID #: 86. Without any such allegations, Babb fails to state a claim under the ADA.

Accordingly, the Court DISMISSES Plaintiff’s ADEA and ADA claims under 28 U.S.C. § 1915(e) (2)(b)(ii) for failure to state a claim on which relief may be granted. Plaintiff’s Title VII claims for discrimination and retaliation will continue against Christian Heights Nursing Home and Rehabilitation, the sole remaining Defendant.

The Court ORDERS: (1) the Clerk of Court shall issue the summons for Christian Heights Nursing and Rehabilitation and effect service of process on Defendant by way of the U.S. Marshals Service in accordance with Rule 4 of the Federal Rules of Civil Procedure. See FED. R. CIV. P. 4(c)(3).

(2) The parties shall serve upon opposing parties, or their counsel, a copy of each document filed in this action as required by the Federal Rules of Civil Procedure, including a certificate of service, if required. See FED. R. CIV. P. 5.

(3) Plaintiff must provide written notice of any change of address to the Clerk of Court and to Defendant’s counsel. See W.D. KY. LOCAL R. 5.3(e). (4) Plaintiff’s failure to notify the Clerk of

any address change or failure to comply with this or any subsequent Order of the Court may result in a dismissal of this case.

(5) The Court REFERS this matter to Magistrate Judge Lanny King under 28 U.S.C. § 636(b)(1) (A) for resolution of all litigation-planning issues, entry of scheduling orders, consideration of any scheduling amendments, and resolution of all nondispositive matters, including discovery issues.

The Court further authorizes Judge King to conduct one or more settlement conferences in this matter. (6) The Court DIRECTS the Clerk to send to Plaintiff a copy of the Pro Se Handbook.
Date: ce: Plaintiff, pro se Defendant Christian Heights Nursing Home and Rehabilitation
Magistrate Judge King B213.009