

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

**JESSICA J. SCOTT,** )  
 )  
 **Plaintiff** )  
 )  
 v. )  
 )  
 **RAY MABUS, Secretary of the Navy,** )  
 )  
 **Defendant** )

**No. 2:16-cv-176-GZS**

**ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS**

In this case alleging wrongful termination, unlawful employment retaliation, sexual harassment, and unlawful discrimination based on disability, gender, and race, the plaintiff seeks permission to proceed without paying fees or costs. I grant the plaintiff's request for leave to proceed *in forma pauperis*. In addition, because the plaintiff's complaint adequately states a claim on which relief may be granted, I direct the clerk of court to arrange for service of process upon the defendant.

*In forma pauperis* status is available under 28 U.S.C. § 1915(a)(1). However, section 1915(e)(2)(B) also provides, in relevant part:

- [T]he court shall dismiss the case at any time if the court determines that
- (B) the action or appeal --
  - (i) is frivolous or malicious;
  - (ii) fails to state a claim on which relief may be granted; or
  - (iii) seeks monetary relief against a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2)(B).

“Dismissals [under 28 U.S.C. § 1915] are often made *sua sponte* prior to the issuance of process, so as to spare prospective defendants the inconvenience and expense of answering such complaints.” *Nietzke v. Williams*, 490 U.S. 319, 324 (1989); *see also Mallard v. U.S. Dist. Ct. S. D. Iowa*, 490 U.S. 296, 307-08 (1989) (“Section 1915(d), for example, authorizes courts to dismiss a ‘frivolous or malicious’ action, but there is little doubt they would have power to do so even in the absence of this statutory provision.”)

The plaintiff reports monthly income of approximately \$1,000 from self-employment, ownership of a Nissan Murano valued at \$2,200, and \$400 in a checking or savings account. Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 4) at 1-2. She lists monthly expenses of approximately \$1,200, exclusive of food and transportation, and one dependent child, as well as loans and obligations of approximately \$16,000. *Id.* These financial circumstances entitle her to proceed *in forma pauperis*.

I turn, then, to a substantive review of the plaintiff’s claim, under section 1915(e)(2). As noted above, the statute that provides for waiver of the filing fee also requires the court to determine whether the plaintiff’s case may proceed. In other words, the plaintiff’s complaint must be dismissed if the court finds it to be frivolous or malicious, seeks monetary relief from a defendant who is immune from such relief, or fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2)(B). In this regard, a *pro se* plaintiff’s complaint must be read liberally. *Donovan v. Maine*, 276 F.3d 87, 94 (1st Cir. 2002).

So read, the plaintiff’s complaint sufficiently alleges that her employer, the U.S. Navy, Portsmouth Naval Shipyard, ECF No. 1-1 at 1, wrongfully terminated her employment in May 2016 in retaliation for her reports of sexual harassment beginning on December 9, 2013, and that

she was discriminated against on the basis of a perceived mental disability, her gender, and her status as a Native American. Complaint for a Civil Case (ECF No. 1) at [4]-[5].

For the foregoing reasons, the plaintiff's application to proceed *in forma pauperis* is **GRANTED**, and the deadline for service of the complaint is extended to 60 days from the date of this order. The clerk is directed to arrange for service of the complaint, along with a copy of this order, upon the defendant as soon as practicable.

**NOTICE**

*A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days after being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) days after the filing of the objection.*

*Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.*

Dated this 31<sup>st</sup> day of May, 2016.

/s/ John H. Rich III  
John H. Rich III  
United States Magistrate Judge