

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DOROTHY FISHER,

Plaintiff,

v.

Case No. 6:17-cv-574-Orl-37TBS

GREGORY WHITLOCK; and
AUTHORHOUSE, LLC,

Defendants.

ORDER

Plaintiff, proceeding *pro se*, initiated this action concerning Defendants' alleged misappropriation of royalties owed to her from her cookbook *Cooking with Miss Dorothy* on March 31, 2017. (*See* Doc. 1.) Plaintiff twice failed to properly allege subject matter jurisdiction (*see* Docs. 1, 6, 10, 11), so on April 28, 2017, the Court dismissed her Amended Complaint without prejudice and granted her leave to amend, cautioning that failure to timely comply would result in dismissal and closure of the case. (Doc. 11, p. 2.) Despite this opportunity, Plaintiff failed to submit an amended filing. Thus, the Court dismissed the case with prejudice on May 16, 2017. (Doc. 12 ("**Dismissal Order**").) Over a year later, Plaintiff filed a motion for reconsideration (Doc. 13), which the Court denied on August 27, 2018 (Doc. 14 ("**Reconsideration Order**").).

After multiple other failed attempts to have the Court reconsider its Dismissal Order and to hold a hearing in this case (*see* Docs. 15–23), Plaintiff filed a notice of appeal on December 12, 2018 as to the Dismissal Order and the Reconsideration Order (Doc. 24).

Now Plaintiff moves for leave to proceed *in forma pauperis*.¹ (Doc. 26 (“**IFP Motion**”).) On referral, U.S. Magistrate Judge Thomas B. Smith recommends that the Court deny the IFP Motion, finding that: (1) no basis for a good faith appeal exists because Plaintiff failed to file a complaint that properly alleged subject matter jurisdiction over her claims despite multiple opportunities; and (2) the notice of appeal is time barred. (Doc. 27 (“**R&R**”).)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan 28, 2016); *see also Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding no such error, the Court finds that the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Thomas B. Smith’s Report and Recommendation (Doc. 27) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Court certifies that Plaintiff’s appeal is not taken in good faith.
3. Plaintiff’s motion for leave to proceed *in forma pauperis* on appeal (Doc. 26) is **DENIED**.

DONE AND ORDERED in Chambers in Orlando, Florida, on January 10, 2019.

¹ Although Plaintiff’s IFP Motion is filed on the form titled “Application to Proceed in District Court Without Prepaying Fees or Costs,” Magistrate Judge Smith appropriately construed the IFP Motion as a motion to proceed on appeal *in forma pauperis*. (See Doc. 27, p. 1.)




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record
Pro Se Party