

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GWENDOLYN KAY McCOY,

Plaintiff,

Case No. 1:12-cv-1

v.

HON. JANET T. NEFF

HATTIE TINNEY, et al.,

Defendants.

OPINION AND ORDER

This case was initiated by Plaintiff on January 3, 2012. The Court granted leave for Plaintiff to proceed *in forma pauperis* on January 6, 2012. The matter was referred to the Magistrate Judge, who conducted an initial review under 28 U.S.C. § 1915(e)(2). The Magistrate Judge issued a Report and Recommendation (R & R), recommending that the case be dismissed for failure to state a claim upon which relief can be granted. The matter is presently before the Court on the objections of Plaintiff to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff objects to the Magistrate Judge's recommendation that the case be dismissed (Pl. Obj., Dkt 8 at 1; R & R, Dkt 7 at 3). Plaintiff states, "There are enough factual allegations against [Defendants] to proceed with this case" (Pl. Obj., Dkt 8 at 1). With her objection, Plaintiff has included new allegations about the inadequate living conditions in her apartment complex (*id.* at 7-13). Plaintiff has also attached twenty-three exhibits in support of her factual allegations (Exs.

A-W, Dkt 8). Even taking the original complaint and these additional allegations as true, these facts, as the Magistrate Judge determined, “fail to state a claim for violation of federal law” (R & R, Dkt 7 at 3). Plaintiff has also failed to either establish complete diversity or to allege an amount in controversy above the jurisdictional minimum required for this Court to exercise diversity jurisdiction (*see id.*). Plaintiff makes no arguments challenging the Magistrate Judge’s application of law to her case. In sum, the Court decides that the Report and Recommendation to dismiss this case is properly adopted as the Opinion of the Court.

For these reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 8) are DENIED, and the Report and Recommendation (Dkt 7) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (Dkt 1) is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C § 1915(a) that an appeal of the Judgment would not be taken in good faith.

DATED: March 19, 2012

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge