

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDRE D. COOLEY,

Plaintiff,

v.

FEDEX FREIGHT, INC., et al.,

Defendants.

Case No. 1:17-cv-700

HON. JANET T. NEFF

OPINION AND ORDER

Plaintiff initiated this *pro se* action alleging claims under Title VII of the Civil Rights Act of 1964 and the American with Disabilities Act. FedEx Freight, Inc. is the sole remaining Defendant. Defendant filed a motion for summary judgment, arguing that “there are no disputes as to any material facts and FedEx is entitled to judgment as a matter of law” (Def. Mot., ECF No. 64 at PageID.961). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending Defendant’s motion for summary judgment be granted (ECF No. 71), and this action terminated. The matter is presently before the Court on Plaintiff’s objection to the Report and Recommendation (ECF No. 72). Defendant filed a response (ECF No. 73). 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 objection and issues this Opinion and Order.

Plaintiff's lengthy objection includes a litany of asserted facts and chronology, but fails to point to any factual or legal error in the Magistrate Judge's analysis or conclusion.

As an initial matter, with respect to his deposition, Plaintiff asserts that "Defendant is attempting to prejudice Mr. Cooley with its cherry picked version" of the transcript (Pl. Obj., ECF No. 72 at PageID.1338). Plaintiff states that he was questioned for hours, and he requests that the Court review each of Plaintiff's entire responses to the questions asked of him or watch the deposition video (*id.* at PageID.1338-1339). Defendant argues in response that it abided by the case management order and procedural rules when it filed only relevant excerpts of Plaintiff's deposition in support of its motion for summary judgment (Def. Resp., ECF No. 73 at PageID.1439-1440).

Plaintiff's request for the Court's full review of his deposition is denied. The local rules clearly state "[t]ranscripts of depositions shall not be filed with the court." W.D. Mich. LCivR 5.3(b). Defendant properly limited its deposition filings to relevant excerpts (*see* CMO, ECF No. 37 at PageID.672). Plaintiff was afforded the same opportunity to file "relevant portions" of discovery material. *See* W.D. Mich. LCivR 5.3(c).

The remainder of Plaintiff's filing merely offers general conclusions or advances arguments already considered by the Magistrate Judge. In many instances, portions of the filing are merely duplicates of earlier filings by Plaintiff (*see, e.g.*, Pl. Am. Compl., Ex. 2, ECF No. 58-2 at PageID.906; Pl. Obj. Ex. 15, ECF No. 72-3 at PageID.1414). As Defendant points out in its response, Plaintiff's recitations are not proper objections to the Report and Recommendation. *See* W.D. Mich. LCivR 72.3(b); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991).

As a final matter, Plaintiff “disagrees” with the Magistrate Judge’s recommendation, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this matter would not be taken in good faith (Pl. Obj., ECF No. 72 at PageID.1338; R&R, ECF No. 71 at PageID.1337). However, as discussed herein, Plaintiff fails to demonstrate error in the Magistrate Judge’s determination. For those reasons and because this action was filed *in forma pauperis*, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision 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).

The Court therefore denies Plaintiff’s objection, and adopts the Report and Recommendation as the Opinion of this Court. All claims in this case having been resolved, the Court will enter Judgment in favor of Defendants.

Accordingly:

IT IS HEREBY ORDERED that Plaintiff’s Objection (ECF No. 72) is DENIED, and Report and Recommendation of the Magistrate Judge (ECF No. 71) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendant’s Motion for Summary Judgment (ECF No. 64) is GRANTED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: March 13, 2019

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