

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

STEVEN J. IWANISZEK,

Plaintiff(s),

v.

PRIDE TRANSPORT, INC.,

Defendant(s).

Case No. 2:17-CV-2918 JCM (BNW)

ORDER

Presently before the court is Magistrate Judge Leen’s report and recommendation (“R&R”). (ECF No. 6). No objections have been filed and the time to do so has passed.

Judge Leen recommends denying pro se plaintiff Stephen Iwaniszek’s application to proceed in forma pauperis. *Id.* at 1 (referring to ECF No. 1). The Ninth Circuit has recognized that “there is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn IFP status.” *Escobedo v. Applebees*, 787 F. 3d 1226, 1235 (9th Cir. 2015). An applicant need not be absolutely destitute to qualify for a waiver of costs and fees, but he must demonstrate that because of his poverty he cannot pay those costs and still provide himself “with the necessities of life.” *Rowland v. Cal Men’s Colony*, 506 U.S 194, 203 (1993) (quoting *Adkins v. E.I DuPont deNemours & Co.*, 335 U.S 331, 339 (1948)). Here, plaintiff’s affidavit states that he is currently employed and receives \$650-\$1,000 in gross wages per week (approximately \$33,800-\$52,000 per year). (ECF No. 1). Plaintiff also has \$2,600 in cash or in a bank account and over \$37,000 in valuable items. *Id.* Additionally, his income and assets exceed his monthly living expenses and he listed no other debts or financial obligations. *Id.* Judge Leen recommends his in forma pauperis application be denied because he has sufficient assets to pay the cost of filing. (ECF No. 6).

1 This court “may accept, reject, or modify, in whole or in part, the findings or
2 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely objects
3 to a magistrate judge’s report and recommendation, then the court is required to “make a de novo
4 determination of those portions of the [report and recommendation] to which objection is made.”
5 28 U.S.C. § 636(b)(1).

6 Where a party fails to object, however, the court is not required to conduct “any review at
7 all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149
8 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a
9 magistrate judge’s report and recommendation where no objections have been filed. See *United*
10 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
11 employed by the district court when reviewing a report and recommendation to which no
12 objections were made).

13 Nevertheless, this court conducted a de novo review to determine whether to adopt the
14 recommendation of the magistrate judge. Upon reviewing the recommendation and attendant
15 circumstances, this court finds good cause appears to adopt the magistrate judge’s findings in
16 full.

17 Accordingly,

18 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Judge Leen’s R&R
19 (ECF No. 6) be, and the same hereby is, ADOPTED.

20 IT IS FURTHER ORDERED that plaintiff’s application to proceed in forma pauperis
21 (ECF No. 1) be, and the same hereby is, DENIED.

22 IT IS FURTHER ORDERED that plaintiff shall pay the filing fee within 14 days of this
23 order.

24 DATED March 16, 2020.

25 
26 _____
27 UNITED STATES DISTRICT JUDGE
28