

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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|------------------------|---|-------------------------------------|
| MACHELLE C., | : | Case No. 1:18-cv-268 |
| | : | |
| Plaintiff, | : | Judge Timothy S. Black |
| | : | |
| vs. | : | Magistrate Judge Karen L. Litkovitz |
| | : | |
| COMMISSIONER OF SOCIAL | : | |
| SECURITY, | : | |
| | : | |
| Defendant. | : | |

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 44)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on January 10, 2023, submitted a Report and Recommendation (Doc. 44).

This social security case was remanded to the Commissioner of Social Security on June 16, 2020. (Doc. 16). Since that remand, Plaintiff has requested on multiple occasions for her case to be reopened or reconsidered, which requests were denied. (*E.g.*, Docs. 25, 27, 29, 31, 32, 33, 36). Most recently, on January 5, 2023 and over Plaintiff's objections, the Court adopted the Magistrate Judge's Report and Recommendations, denied Plaintiff's motion "for [her] SSDI case to move forward," and certified that any *in forma pauperis* appeal would not be taken in good faith. (Docs. 37, 38, 39, 40).

On January 9, 2023, Plaintiff filed a notice of appeal. (Doc. 42). She also moved for leave to appeal *in forma pauperis*. (Doc. 43). The Magistrate Judge recommends denying that motion, since the Court has already certified that any *in forma pauperis* appeal would not be taken in good faith. (Doc. 44). The Magistrate Judge also recommends that Plaintiff be advised of the following:

Pursuant to Fed. R. App. P. 24(a)(4), a plaintiff may file, within thirty (30) days after service of any Order adopting the Report and Recommendation, a motion with the Sixth Circuit Court of Appeals for leave to proceed as a pauper on appeal. *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), *overruling in part Floyd v. United States Postal Service*, 105 F.3d 274 (6th Cir. 1997). The plaintiff's motion must include a copy of the affidavit filed in the District Court and the District Court's statement of the reasons for denying pauper status on appeal. *Id.*; *see* Fed. R. App. P. 24(a)(5).

The plaintiff is notified that if the plaintiff does not file a motion within thirty (30) days of receiving notice of the District Court's decision as required by Fed. R. App. P. 24(a)(5), or fails to pay the required filing fee of \$505.00 within this same time period, the appeal will be dismissed for want of prosecution. *Callihan*, 178 F.3d at 804. Once dismissed for want of prosecution, the appeal will not be reinstated, even if the filing fee or motion for pauper status is subsequently tendered, unless the plaintiff can demonstrate that the plaintiff did not receive notice of the District Court's decision within the time period prescribed for by Fed. R. App. P. 24(a)(5). *Id.*

(*Id.* at 2). No objections were filed to the Report and Recommendation, and the time for doing so has expired.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all

of the filings in this matter. Upon consideration of the foregoing, the Court finds that the Report and Recommendation should be and is hereby adopted in its entirety.

Accordingly, for the reasons stated above:

1. The Report and Recommendation (Doc. 44) is hereby **ADOPTED**;
2. Plaintiff's motion for leave to appeal *in forma pauperis* (Doc. 43) is **DENIED**; and,
3. This action remains terminated upon the docket of the Court.

IT IS SO ORDERED.

Date: 1/25/2023

s/Timothy S. Black
Timothy S. Black
United States District Judge