

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

YAN YAN,	:	CIVIL ACTION
	:	NO. 15-754
Plaintiff,	:	
	:	
v.	:	
	:	
TRUSTEE OF UNIVERSITY OF	:	
PENNSYLVANIA et al.,	:	
	:	
Defendants.	:	

O R D E R

AND NOW, this **31st** day of **July**, **2015**, upon consideration of the pleadings and record herein, and after review of the Report and Recommendation of United States Magistrate Judge Thomas J. Rueter (ECF No. 7), and any objections thereto,¹ it is hereby **ORDERED** as follows:

- (1) The Report and Recommendation is **APPROVED** and **ADOPTED**; and
- (2) Plaintiff's application to proceed in forma pauperis (ECF No. 1) is **DENIED**.

¹ On April 20, 2015, Plaintiff faxed to Chambers an illegible copy of her objections to Judge Rueter's Report and Recommendation. The Court ordered Plaintiff's objections overruled and gave Plaintiff until May 7, 2015, to file a renewed objection. ECF No. 8. Plaintiff chose not to file such objection. However, even if she had, the Court would nevertheless agree with Judge Rueter's Report and Recommendation and, as such, will approve and adopt it here.

It is **FURTHER ORDERED** as follows²:

- (1) Plaintiff's Motion to Reconsideration [sic] of Order Recommendation [sic] on Proceeding In Forma Pauperis with Exhibits to Be Docketed (ECF No. 13) is **DENIED**;³

² As an initial matter, the Court notes that, an appeal having been filed in this case (ECF No. 11), the Court would ordinarily not entertain any additional motions other than those made to maintain the status quo or seek reconsideration. However, Plaintiff's appeal of the Magistrate Judge's Report and Recommendation--which until today the Court has not adopted as a judgment of this Court--is a legal nullity. Accordingly, the Court will at this time consider the additional motions Plaintiff has filed.

³ Plaintiff's motion to reconsider fails for three reasons. First, the Court construes the motion as an untimely objection to the Report and Recommendation. As indicated in footnote 2 above, the Court did not adopt the Report and Recommendation until today. Therefore, at the time Plaintiff filed the motion, there was no decision to reconsider. Plaintiff's motion appears to be an attempt to improperly file an objection to the Report and Recommendation after the date on which the Court ordered objections due.

Second, Plaintiff's motion appears to present a new argument that the funds she may borrow from her family are restricted to living costs, and may not be used for litigation costs. According to the Local Rules, "unless the interest of justice requires it, new issues and evidence shall not be raised after the filing of the Magistrate Judge's Report and Recommendation if they could have been presented to the magistrate judge." Local R. Civ. P. 72.1.IV.(c). Here, Plaintiff did not present the restricted-funds argument to Magistrate Judge Rueter at the in forma pauperis hearing and thus cannot present it now.

Third, even if Plaintiff could present the restricted-funds argument now, she has offered no evidence, written or oral, that the funds she has access to are so restricted. Accordingly, Plaintiff has failed to carry her burden that she

- (2) Plaintiff's Motion to Waiver [sic] Copy Fee for Court Record Due to Poverty (ECF No. 14) is **DENIED**;⁴ and
- (3) Any other relief, to the extent Plaintiff has requested any, is **DENIED**.

And it is so ordered.

/s/ Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

is unable to pay the filing fee. For the reasons given, the Court will deny Plaintiff's motion to reconsider.

⁴ The Court declines to waive Plaintiff's costs. Having failed to obtain authorization from the Court to proceed in forma pauperis, Plaintiff must pay such fees and costs as are necessary to prosecute her case.