

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION

NIGEL M REID II,)	
)	
Plaintiff,)	2:18-CV-00090-DCLC
)	
vs.)	
)	
AUBREY'S RESTAURANT INC.,)	
)	
Defendant.)	

ORDER

This matter is before the Court to consider the Report and Recommendation of the United States Magistrate Judge [Doc. 63]. Plaintiff filed timely objections to the Report and Recommendation [Doc. 64]. This matter is now ripe for resolution.

In the Report and Recommendation, Magistrate Judge Wyrick recommends that Plaintiff’s Motion for Leave to Appeal *in Forma Pauperis* be denied as Plaintiff failed to comply with Federal Rule of Appellate Procedure 24(a)(1), which states that a party who desires to appeal *in forma pauperis* must file a motion in the district court, and attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.

First, Plaintiff failed to include the amount of income received from his Social Security Disability Insurance (“SSDI”), while stating that it is his only income. As such, Magistrate Judge Wyrick was unable to determine whether Plaintiff qualified financially under Fed.R.App.P. 24(a)(1)(A). Second, Magistrate Judge Wyrick found that Plaintiff did “not adequately identify the

issues he intends to present on appeal nor why he is entitled to “correct” his mistakes on his complaint” as required by Fed.R.App.P. 24(a)(1)(B) and (C) [Doc. 63, pg. 3].

In his objection, Plaintiff, proceeding *pro se*, attempts to correct the errors the Magistrate Judge raised in her Report and Recommendation. He states that his income from SSDI totals \$861.00 a month, which is just sufficient to pay his bills and leaves very little leftover, if any [Doc. 64, pg. 2]. Plaintiff also restates his claim from his notice of appeal verbatim, requesting the Court to “allow [him] to correct [his] mistakes on [his] complaint to show of a matter of law that my rights where [sic] violated by the 42 U.S.C. 1983, Title VII or the ADA Act of 1993.” [Doc. 64, pg. 2]. He also includes a list of issues, including his basic claims such as race discrimination, retaliation, and disability [Doc. 64, pg. 3]. He does not address any specific aspects of this Court’s ruling on his Motion for Summary Judgment that he wishes to appeal.

After careful consideration of the record as a whole and the Report and Recommendation of the United States Magistrate Judge, and for the reasons set out in that Report and Recommendation which are incorporated by reference herein, it is hereby **ORDERED** that the Report and Recommendation be **ADOPTED** and Plaintiff’s Motion to Proceed on Appeal *in Forma Pauperis* be **DENIED**. If Plaintiff wishes to proceed with his appeal, he must pay the \$505.00 appellate fee to the Clerk of this Court within thirty days of this order.

Alternatively, Plaintiff may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in Fed.R.App.P. 24(a)(5).

SO ORDERED:

s/ Clifton L. Corker
United States District Judge