

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

FELICIA A. JEFFERSON,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	No. 18-2620-KHV
)	
AMSTED RAIL COMPANY, INC.,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

On November 16, 2018, pro se plaintiff Felicia A. Jefferson sued Amsted Rail Company, Inc., alleging that defendant discriminated against her in violation of Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000e et seq., and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. Complaint (Doc. #1). On February 25, 2020, U.S. Magistrate Judge James P. O’Hara entered his Amended Report And Recommendation (Doc. #69), which recommended that the Court dismiss plaintiff’s claims because she continually failed to satisfy discovery requests and repeatedly violated orders to do so.¹ On April 6, 2020, the Court adopted Judge O’Hara’s report and recommendation, and dismissed plaintiff’s claims with prejudice. Memorandum And Order (Doc. #76). On May 27, 2020, the Court overruled plaintiff’s request to alter or amend the Court’s order.² Memorandum And Order (Doc. #79). On June 26, 2020, plaintiff appealed Memorandum

¹ On February 21, 2020, Judge O’Hara filed his initial Report And Recommendation (Doc. #67), which was based in part on plaintiff’s failure to pay defendant \$200 in accordance with the court’s Order (Doc. #62). On February 25, 2020, Judge O’Hara entered his Amended Report And Recommendation (Doc. #69), which reflected that plaintiff had made the payment.

² The Court incorporates the factual and procedural background from its Memorandum And Order (Doc. #76) and Memorandum And Order (Doc. #79).

And Order (Doc. #76) and Memorandum And Order (Doc. #79).³ Notice Of Appeal (Doc. #80).

This matter is before the Court on plaintiff's Motion To Proceed Without Prepayment Of Fees (Doc. #81) filed June 26, 2020. For reasons stated below, the Court overrules plaintiff's motion.

Legal Standards

Pursuant to Rule 24(a)(3), Fed. R. App. P., if the district court permits plaintiff to proceed in forma pauperis at the trial level, she may proceed on appeal in forma pauperis without further authorization unless (1) the district court certifies that plaintiff does not appeal in good faith or finds that plaintiff is not "otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding" or (2) a statute provides otherwise. See 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith."). As to the former, good faith is an objective standard which requires "the existence of a reasoned, non-frivolous argument on the law and facts in support of the issues raised on appeal." Bailot v. Colorado, 385 F. App'x 853, 855 (10th Cir. 2010) (citations omitted).

While the Court liberally construes a pro se plaintiff's pleadings, it does not assume the role of advocate, and it may not "supply additional factual allegations to round out a plaintiff's complaint or construct a legal theory on a plaintiff's behalf." McCoy v. Kansas, No. 16-2129-JAR, 2016 WL 3549100, at *2 (D. Kan. June 30, 2016) (citations omitted); see Tatten v. City & Cty. of Denver, 730 F. App'x 620, 624 (10th Cir. 2018), cert. denied sub nom. Tatten v. City & Cty. of Denver, Colo., 139 S. Ct. 826 (2019).

³ Plaintiff appeals the Court's "April 6, 2020 final Memorandum and Order Overruling Plaintiff's Motion to Alter or Amend and the subsequent May 27, 2020 Memorandum and Order Overruling Plaintiff's Motion to Alter or Amend." Notice Of Appeal (Doc. #80). The Court assumes that the former refers to Memorandum And Order (Doc. #76) and the latter Memorandum And Order (Doc. #79).

Analysis

Plaintiff seeks to appeal in forma pauperis the Court's Memorandum And Order (Doc. #76) and Memorandum And Order (Doc. #79). In support, she provides certain financial information, but she does not make any substantive arguments on or even mention the Court's decisions. See Affidavit Accompanying Motion For Permission To Appeal In Forma Pauperis (Doc. #81-1). That is, plaintiff does not actually assert the basis for her appeal. See id. at 2 (leaving blank section for "issues on appeal"). For this reason, along with those in its Memorandum And Order (Doc. #76) and Memorandum And Order (Doc. #79), the Court finds that plaintiff has not raised a "reasoned, non-frivolous argument on the law and facts in support of the issues raised on appeal." Bailot, 385 F. App'x at 855 (citations omitted). Accordingly, plaintiff has not shown that she appeals in good faith, and the Court therefore overrules her petition to appeal in forma pauperis.

IT IS THEREFORE ORDERED that Motion To Proceed Without Prepayment Of Fees (Doc. #81) filed June 26, 2020 is **OVERRULED**.

Dated this 10th day of August, 2020 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge