

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROBERT MALEK,

Plaintiff,

v.

NEW YORK UNIFIED COURT SYSTEM, *et al.*,

Defendants.

ORDER
22-cv-5416 (HG) (RER)

HECTOR GONZALEZ, United States District Judge:

Pro se Plaintiff Robert Malek commenced five separate actions between November 2021 and December 2022.¹ The Court consolidated and dismissed those actions by Memorandum and Order dated March 9, 2023. *See Malek v. N.Y. Unified Ct. Sys.*, No. 22-cv-5416, 2023 WL 2429528 (E.D.N.Y. Mar. 9, 2023). Plaintiff filed a Notice of Appeal on April 6, 2023. ECF No. 215. Plaintiff did not pay the filing fee nor submit a completed application to proceed *in forma pauperis* (“IFP”). Instead, Plaintiff submitted, via the Eastern District of New York’s Box.com portal, an incomplete IFP application attached to a cover letter containing a hateful symbol—a swastika—and using offensive names for the Clerk of Court and the Magistrate Judge assigned to these cases. The submission asserts that the filing fee “is not applicable” because, Plaintiff claims, he previously submitted a money order for a filing fee in one of his cases which was not properly credited.²

¹ *Malek v. N.Y. State Unified Ct. Sys., et al.*, No. 22-cv-5416; *Malek v. N.Y. State Unified Ct. Sys., et al.*, No. 22-cv-6515; *Malek v. James*, No. 22-cv-6538; *Malek v. N.Y. State Unified Ct. Sys., et al.*, No. 22-cv-6775; *Malek v. Ingoglia*, No. 22-cv-7815.

² Plaintiff asserts that he was informed by the Second Circuit that the money order was returned to him, but he claims that he did not receive it. Notably, Plaintiff has refused to provide his current mailing address.

Rule 3(e) of the Federal Rules of Appellate Procedure requires that the appellant pay the district court all required fees upon the filing of a notice of appeal. Fed.R.App.P. 3(e). Rule 24(a)(1) of the Federal Rules of Appellate Procedure provides that a party who wishes to proceed *in forma pauperis* on appeal must file a motion in the district court and must 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.” Fed.R.App.P. 24(a)(1). Form 4 requires the filer to affirm under the penalty of perjury that he cannot prepay the docket fees and to provide the source and amount of his income and a list of his assets, debts, dependents, and expenses.

Under these Rules, Plaintiff may not proceed on his appeal until he either pays the filing fee or requests to proceed IFP by providing the required details of his financial situation. Plaintiff shall have 14 days to either pay the filing fee or submit a completed IFP application. Failure to comply with this Order will result in dismissal of the appeal.

Finally, the Court warns Plaintiff that it will not accept for filing via electronic, or any other, means any document that includes hateful symbols or offensive language. Plaintiff’s future submissions should not contain such symbols or language if he wishes for them to be docketed.

SO ORDERED.

/s/ Hector Gonzalez
HECTOR GONZALEZ
United States District Judge

Dated: Brooklyn, New York
April 14, 2023