

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

ROY JACKSON PIERCE,

PLAINTIFF

v.

CASE NO. 2:11-CV-2145

TYSON FOODS, RIVER VALLEY ANIMAL FOODS,  
JENNIFER SCHLUTERMAN, DENNIS KOCH,  
GREG ECKELHOFF, HOMER WINSTON,  
and ALL JOHN DOES, unknown, who were  
written up for racial discrimination,  
sued in their individual and official  
capacities of Tyson Foods

DEFENDANTS

O R D E R

Before the Court are Defendant Jennifer Schluterman's Motion to Dismiss for Insufficiency of Process, Insufficiency of Service of Process, and for Failure to State Facts upon which Relief Can Be Granted (Doc. 4) and Brief in Support (Doc. 5). Plaintiff has failed to timely respond to the Motion, despite the Court's Order of September 1, 2011 (Doc. 7), directing Plaintiff to respond by September 23, 2011, and the Court's later Order of September 22, 2011, granting Plaintiff's motion to extend the time to file a response until October 7, 2011. As the Court's second extension of time for Plaintiff to file a response has passed, the Court will now consider the Motion on the merits.

Defendant Schluterman, who is a supervisor of the Plaintiff, correctly states in her Motion that there is no individual liability for supervisors pursuant to Title VII of the Civil Rights Act. *Lenhardt v. Basic Inst. Of Technology, Inc.*, 55 F.3d 377,

381 (8th Cir. 1995) ("supervisors and other employees cannot be held liable under Title VII in their individual capacities"). For this reason, Defendant's Motion to Dismiss (Doc. 4) is GRANTED and Defendant Schluterman is hereby dismissed with prejudice from this case.

It is so **ORDERED** this 3rd day of November 2011.

/s/ Robert T. Dawson  
Honorable Robert T. Dawson  
United States District Judge