

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-10013-CIV-KING
MAGISTRATE JUDGE P. A. WHITE

ERVIN EVANS, AKA
ERVIN J. THOMPSON,

Plaintiff,

v.

SANDRA STERNAL,

Defendants.

:

:

:

:

:

REPORT OF
MAGISTRATE JUDGE

This Cause is before the Court upon the defendant Sternal's Motion to Dismiss. [DE# 16].

On February 4, 2009, the plaintiff Ervin Evans, a/k/a Ervin J. Thompson filed a pro se civil rights complaint pursuant to 42 U.S.C. §1983. [DE# 1]. The plaintiff is proceeding in forma pauperis.

The case is proceeding against Sandra Sternal, a dietician with Trinity Food Services. [DE# 11]. The plaintiff alleges that Sternal has not provided an adequate amount of food not and adequate amount of wholesome food.

The Deputy Marshal attempted to serve Sternal by leaving the process with Nancy Climo, identified as "V.P. of Administration." [DE# 14]. This service is insufficient because Climo is not identified as an agent authorized by appointment or by law to receive service of process. See Fed.R.Civ.P. 4(e)(2).

Based on the foregoing, it is recommended that the defendant Sternal's Motion to Dismiss [DE# 16] be granted.¹

Objections to this report may be filed with the District Judge within ten days of receipt of a copy of the report.

It is so recommended at Miami, Florida, this 3rd day of June, 2009.



UNITED STATES MAGISTRATE JUDGE

cc: Ervin Evans, a/k/a Ervin J. Thompson, Pro Se
No. 6014242
Monroe County Detention Center
5501 College Road
Key West, FL 33040

Counsel of Record

¹ The Undersigned has issued an Order directing the U.S. Marshal to properly serve Sternal.