

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON

CIVIL ACTION NO. 08-286-JBC

TERRY LEE MULLINS,

PLAINTIFF,

V.

MEMORANDUM OPINION AND ORDER

JOHN MARSHALL, ET AL.,

DEFENDANTS.

* * * * *

This matter is before the court upon the motion to dismiss for lack of jurisdiction by Oman Sandlin. R. 51.

The plaintiff, Terry Mullins, named Oman Sandlin as a defendant in his third amended complaint (R. 33), and later moved for Sandlin to be served (R. 57). Magistrate Judge James B. Todd denied the request for service (R. 59) because of Mullins's failure to allege that Sandlin was personally involved in any of the events complained of and because Mullins could not proceed on a respondeat superior theory of liability. Because Sandlin has not been served, he is not a party to this lawsuit and cannot be dismissed. *See* R. 33; *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 110 (1969) (“[A] court has no power to adjudicate a personal claim or obligation unless it has jurisdiction over the person of the defendant.”).

Accordingly, **IT IS ORDERED** that Sandlin's motion to dismiss is **DENIED**.

Signed on November 19, 2009



Jennifer B. Coffman

JENNIFER B. COFFMAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY