

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION at LEXINGTON

CIVIL ACTION NO. 08-326-KSF

SHERRY WELLS HAMILTON

PLAINTIFF

v.

**OPINION & ORDER**

COMMONWEALTH OF KENTUCKY,  
CABINET FOR HEALTH AND FAMILY SERVICES,  
and GAYTHA BARE

DEFENDANTS

\* \* \* \* \*

The plaintiff, Sherry Wells Hamilton, filed a *pro se* civil rights complaint asserting that the defendants violated her Fourteenth Amendment due process rights and claiming entitlement to relief in the amount of \$20 million. Her claim centers on a Kentucky state child custody determination which resulted in the removal and subsequent placement in state custody of her three children. Subsequently, the defendants filed a Motion to Dismiss. This matter was referred to the United States Magistrate Judge to conduct initial hearings and submit proposed findings of fact and recommendations on all dispositive motions pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge filed a Recommended Disposition on January 7, 2009. In his report, the Magistrate Judge found that the court lacks jurisdiction over the matter and recommended that the court dismiss the plaintiff's civil action.

The plaintiff failed to file objections the Recommended Disposition. Although the court must make a *de novo* determination of those portions of the Magistrate Judge's report and recommendation to which objection are made, 28 U.S.C. § 636(b)(1), "[i]t does not appear that

Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Moreover, a party who fails to file objections with the District Court to a Magistrate Judge's Report and Recommendation waives the right to appeal. *See Wright v. Holbrook*, 794 F.2d 1152, 1154-55 (6<sup>th</sup> cir. 1986). Nevertheless, this court, having examined the record and having made a *de novo* determination, is in agreement with the Magistrate Judge's Recommended Disposition.

Accordingly, **IT IS ORDERED** that the Magistrate Judge's Recommended Disposition [DE 11] is **ADOPTED** as and for the opinion of the Court, and a Judgment will be entered contemporaneously with this Opinion and Order in favor of the defendants.

This 5<sup>th</sup> day of March, 2009.



**Signed By:**

**Karl S. Forester** K S F

**United States Senior Judge**