

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

CIVIL ACTION NO. 13-52-KSF

HEIDI K. ERICKSON

PLAINTIFF

v.

OPINION & ORDER

JOSEPH FINK, III

DEFENDANT

* * * * *

On February 10, 2014, the Magistrate Judge entered his Recommended Disposition wherein he recommended that this matter be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure due to the failure of the plaintiff, Heidi K. Erickson, *pro se*, to comply with multiple orders of the Court and to appear for two scheduled hearings [DE #25]. Erickson failed to file any objections to the Magistrate Judge’s Recommended Disposition, and on March 4, 2014, the Court entered its Opinion & Order dismissing, with prejudice, Erickson’s claims against the only remaining defendant, Joseph Fink, III [DE #26]. On March 11, 2014, Erickson filed her “urgent” motion seeking relief from the Courts’ orders denying her access to file and review via Pacer as well as the March 4, 2014 Opinion & Order dismissing this action [DE #27].

In support of her motion, Erickson claims that she has no reasonable access to this Court except through electronic access. Specifically, she cites her physical disabilities and lack of funds, the weather conditions, the post office hours and other impediments to obtaining her mail and filing

her pleadings. While Erickson contends she should have been allowed to electronically file and receive court documents, she states that she has “limited access to the Internet, telephone and email” [DE #27, p.3]. Moreover, as the defendant points out, Erickson failed to respond to the December 16, 2013 correspondence sent by his counsel to Erickson’s U.S. Mail address *and* two email addresses. For these reasons and the reasons cited within earlier orders denying her electronic access to file and review pleadings, the Court finds it unlikely that allowing Erickson electronic access to the Court would have changed the outcome of this case.

Erickson has been advised that she must provide a mailing address by which service could be made by the Court and the defendant [DE ##3, 18]. Moreover, Erickson has successfully submitted pleadings both in person and through the mail in this case and another case in this district. *See Heidi Kristine Erickson v. Newberry, et al.*, Lexington Civil Action No. 10-363. A review of the docket sheet reveals that Erickson filed a motion by mail on December 26, 2013 [DE #19]. Since that date, Erickson failed to appear for two scheduled hearings, despite prior warnings that non-compliance and failure to cooperate or prosecute could lead to dismissal. Even under the lenient standards afforded a *pro se* plaintiff, Erickson cannot stick her head in the sand for long periods of time and ignore her ongoing case. At whatever point service through her U.S. Mail address became impossible, Erickson had a duty to promptly inform the Court. By her own admission, she telephoned the Clerks Office on February 26, 2014 and learned of the impending dismissal of this action. However, she took no action until filing this motion on March 11, 2014. Finally, Erickson failed to file any written objections to the Magistrate Judge’s Recommended Disposition. Her failure to do so is sufficient grounds alone for entering dismissal. *See Thomas v. Arn*, 474 U.S. 140, 149

(1985); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). Her “urgent” motion is untimely and not well taken and, therefore, will be denied.

Accordingly, **IT IS HEREBY ORDERED** that Erickson’s motion [DE # 27] is **DENIED**.

This April 17, 2014.



Karen K. Caldwell

KAREN K. CALDWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY