

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:04-CV-519-BO

DOROTHY JEFFRIES, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 WILLIAM CHAVIS d/b/a CAPE FEAR, )  
 UPHOLSTERY OF FAYETTEVILLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**ORDER**

This matter is before the court on plaintiff's application to proceed *in forma pauperis*, and for frivolity review pursuant to 28 U.S.C. § 1915(e)(2)(B). For the reasons stated below, Plaintiff's claim is DISMISSED.

**BACKGROUND**

Magistrate Judge James E. Gates filed an Order and Memorandum and Recommendation (M&R) on May 19, 2009. The magistrate found Plaintiff's application to proceed *in forma pauperis* appropriate, but recommended that the underlying complaint be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). Plaintiff filed a Motion for Extension of Time with this Court on June 8, 2009, requesting a thirty (30) day extension to file her objections. This Court granted her Motion for Extension of Time on July 10, 2009, granting Plaintiff through September 1, 2009 to file her response. Plaintiff filed no objections to the M&R before time for doing so expired. Plaintiff filed an out of time response on September 17, 2009.

DISCUSSION

Under Local Rule 72.4(b), this Court “shall make a *de novo* determination of those portions of [an M&R] to which objection is made” to a timely objection. Plaintiff failed to file a timely written objection to the M&R, foregoing her right to *de novo* review on any issue covered in the M&R. Thus, the appropriate standard of review for this Court is plain error.

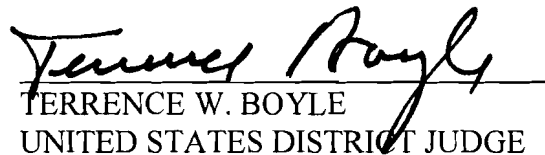
This Court has conducted a careful review of the M&R and other documents of record, and having done so, hereby finds that the recommendations of Magistrate Judge Gates are, in all respects, in accordance with the law. Therefore, this Court adopts the recommendation of the Magistrate Judge and the Plaintiff’s complaint is DISMISSED.

CONCLUSION

Accordingly, Plaintiff’s complaint is DISMISSED as frivolous.

SO ORDERED.

This 21 day of October, 2009.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE