

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MARK GRIFFIN, SR., *et al.*,
Plaintiffs,

vs.

Civil Action 2:09-CV-210
Judge Graham
Magistrate Judge King

TERRY COLLINS, Director,
et al.,

Defendants.

ORDER and
REPORT AND RECOMMENDATION

Defendants filed a motion to dismiss on September 3, 2009. Doc. No. 16. Because defendants are therefore not in default for a response to the complaint, it is **RECOMMENDED** that the motion for default judgment filed by plaintiff Mark Griffin, Sr., Doc. No. 17, be **DENIED**.

If plaintiffs intend to respond to the motion to dismiss, they shall do so within 20 days of the date of this *Order and Report and Recommendation*. Plaintiffs are advised that their failure to respond to the motion to dismiss is likely to result in the grant of that motion.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to

the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

September 18, 2009

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge