

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

| | | |
|------------------------|---|---------------------------|
| L. RUTHER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 3:10-CV-318 |
| |) | (Phillips/Shirley) |
| SUNTRUST BANK, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND OPINION

This matter is before the Court on the Report and Recommendation (“R&R”) filed by United States Magistrate Judge C. Clifford Shirley [Doc. 3]. There have been no timely objections to the R&R [Doc. 3], and enough time has passed since the filing of the R&R [Doc. 3] to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

After a careful review of this matter, the Court is in complete agreement with the magistrate judge’s conclusion that Plaintiff’s complaint [Doc. 1] should be **DISMISSED WITH PREJUDICE** for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). Accordingly, the Court **ACCEPTS IN WHOLE** the R&R [Doc. 3] under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b), whereby Plaintiff’s complaint is **DISMISSED WITH PREJUDICE**. *See Pointer v. Wilkinson*, 502 F.3d 369, 377 (6th Cir. 2007) (recognizing that dismissing a claim under 28 U.S.C. § 1915 for failure to state a claim operates as a “dismissal with prejudice”).

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge