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UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE COLUMBIA DIVISION

DARRYL STEVENSON,)	
Plaintiff,)	
v.)))	No. 1:10-00043 Judge Sharp
LES HELTON, SHERIFF and)	8 1
MUNICIPALITIES OF MARSHALL)	
COUNTY,)	
)	
Defendants.)	
	OPPED	

ORDER

The Magistrate Judge has entered a Report and Recommendation ("R & R") (Docket No. 21) in which he recommends that Defendants' Motion to Dismiss (Docket No. 14) for insufficient service of process under Fed. R. Civ. P. 12(b)(5) be denied. In doing so, the Magistrate Judge notes that "[i]f Defendants were not properly served in this case, Plaintiff is not responsible for that circumstance," (Docket No. 21 at 3) because Plaintiff is proceeding *in forma pauperis*, and responsibility for service rests with the United States Marshal pursuant to 28 U.S.C. § 1915(d). As such, the Magistrate Judge submits that it would be inappropriate to dismiss the case. However, to remedy any lack of service, the Magistrate Judge also recommends that Defendants be given twenty days to file a notice of waiver of the defense, or to otherwise advise the Court on where and when they can be served. Defendants have filed responses to the R & R in which they waive service of process. (Docket Nos. 29 & 30).

Accordingly, the R & R (Docket No. 21) is hereby ACCEPTED AND APPROVED, and Defendants' Motion to Dismiss (Docket No. 14) is hereby DENIED.

It is SO ORDERED.

KEVIN H. SHARP

Kein H. Shorp

UNITED STATES DISTRICT JUDGE