

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

<b>JOSHUA LEE CARROLL, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>No. 2:11-0019</b>
	)	<b>Judge Sharp</b>
<b>FENTRESS COUNTY SHERIFF'S</b>	)	
<b>DEPARTMENT, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

In this case brought by two inmates at the Fentress County Jail, the Magistrate Judge has entered a Report and Recommendation (“R & R”) (Docket No. 66), recommending that the Motion to Dismiss filed by Defendant Evelyn Faye Smith (“Smith”) (Docket No. 28) be denied. The Magistrate Judge has entered a separate R & R (Docket No. 67), recommending that the joint Motion to Dismiss filed by Defendants Fentress County Sheriff’s Department and Laurel Wasik (“Wasik”) (Docket No. 29) be granted as to the Fentress County Sheriff’s Department, but denied as to Wasik.

The Magistrate Judge further recommends that the Court provide both Smith and Wasik twenty-one (21) days within which to inform the Court whether those Defendants waive service of process, or advise the Court when and where each individual Defendant can be served, so that the Marshals Service can effect personal service. No objections have been filed to either R & R, although counsel for Fentress County has informed the Court that Wasik is no longer employed with Fentress County and, “[a]s such, counsel has been unable to get consent to waive service.” (Docket No. 78 at 1).

Having conducted a *de novo* review of the matter in accordance with Fed. R. Civ. P. 72(b), the Court agrees with the Magistrate Judge's recommendations. Accordingly,

(1) The Report and Recommendation (Docket No. 66) and the Report and Recommendation (Docket Entry No. 67) are hereby ACCEPTED and APPROVED;

(2) Defendant Smith's Motion to Dismiss (Docket No. 28) is hereby DENIED;

(3) The joint Motion to Dismiss filed by Defendants Fentress County Sheriff's Office and Wasik (Docket No. 29) is hereby GRANTED as to Defendant Fentress County Sheriff's Office but DENIED as to Defendant Wasik;

(4) Within 21 days of the date of entry of this Order, Defendant Smith shall inform the Court as to whether she waives service of process, or advise the Court as to when and where she can be served by the Marshal's Service;

(5) The Clerk of the Court shall provide the Marshal's service with a copy of this Order and the Complaint and summons so that the Marshal's Service can effect personal service on Defendant Wasik.

It is SO ORDERED.



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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE