

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

| | | |
|--------------------------------------|---|----------------------|
| LESTER G. MURPHY, SR., |) | |
| |) | |
| Plaintiff, |) | No. 3:08-1122 |
| v. |) | JUDGE ECHOLS |
| |) | |
| HUMPHREYS COUNTY JUVENILE |) | |
| COURT, JUDGE ANTHONY SANDERS, |) | |
| et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

Pending before the Court is the Report and Recommendation (“R&R”) entered by the United States Magistrate Judge on September 21, 2009 (Docket Entry No. 65), recommending that the Court dismiss Plaintiff’s claim against the remaining Defendant, Mike Leavitt, U.S. Department of Health & Human Services, for failure to effectuate proper service and for failure to state a claim. Plaintiff Lester G. Murphy, Sr., did not file timely objections to the R&R even though he was informed that he had ten (10) days after service of the R&R to file such objections.

In reviewing an R&R, the Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). Having reviewed the R&R in light of the record, the Court finds that no error of fact or law appears. Accordingly, the Court rules as follows:

(1) the R&R entered on September 21, 2009 (Docket Entry No. 65), is hereby ACCEPTED;

(2) Plaintiff’s claim against Defendant Mike Leavitt, U.S. Department of Health & Human Services, is hereby DISMISSED for failure to effectuate proper service of process and for failure to state a claim;

(3) all other pending motions are hereby DENIED AS MOOT;

(4) this case is hereby DISMISSED WITH PREJUDICE; and

(5) entry of this Order on the docket shall constitute entry of final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE