

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**UNITED STATES OF AMERICA,
Upon the relation and for the use of the
TENNESSEE VALLEY AUTHORITY,**

Plaintiff,

v.

No. 2:11-CV-02869-cgc

**EASEMENTS AND RIGHTS-OF-WAY
OVER A TOTAL OF 11.21 ACRES OF LAND,
MORE OR LESS, IN TIPTON COUNTY,
TENNESSEE, and
JAMES I. BURLISON, ET AL.,**

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS DEFENDANTS HUNTER
EDWARDS AND THE ESTATE OF MARTHA DEAN JOHNSON**

Before the Court is Plaintiff's ("United States") Motion to Dismiss with Prejudice Defendants Hunter Edwards ("Edwards") and the Estate of Martha Dean Johnson ("Estate").¹ In the instant motion, the United States requests that the Court dismiss Edwards and the Estate pursuant to Federal Rules of Civil Procedure 12(c) and 71.1(i). For the reasons set forth herein, the motion is hereby GRANTED.

I. Introduction

This case arises from a condemnation action by the United States against parties with possible interests in a tract of land in Tipton County, Tennessee. The United States brought the

¹ Pursuant to 28 U.S.C. § 636(c)(1), the parties in this matter have consented to the jurisdiction of the United States Magistrate Judge to conduct any and all proceedings in the case. (See D.E. #15).

action on behalf of the Tennessee Valley Authority, pursuant to 16 U.S.C. §§ 831 (2006 & Supp. III 2009). The United States named as defendants all persons who may have had an interest in the land. James Burlison owns and has a deed to the property. The United States named Burlison and his spouse, Ann Burlison, as defendants. At the time the United States filed the complaint, Edwards also had a potential interest in the land.

Edwards had a potential interest because he filed a lawsuit, individually and as administrator of the Estate, in Chancery Court of Tipton County, Tennessee in 2009. Hunter Edwards, individually and as Administrator of the Estate of Martha Dean Johnson v. Billy Johnson, et al., Case No. P-1665 (filed November 13, 2009). Edwards sought to set aside a deed of a portion of the property Burlison owns. As a result, the United States also named Edwards and the Estate as defendants in the condemnation action.

In or around July 2013, Edwards dropped his suit. The Chancery Court of Tipton County dismissed the action with prejudice. On July 26, 2013, the Burlisons filed an Order Allowing Notice of Nonsuit with Prejudice as to Defendant James I. Burlison. The United States now moves to dismiss Edwards and the Estate from the condemnation action because these defendants no longer have any claim or interest in the property at issue. Edwards has not, individually or as administrator of the Estate, made an appearance in this action or asserted that he or the Estate has an interest in the property.

II. Analysis

The Chancery Court's Order dismissing Edward's action with prejudice relieves Edwards and the Estate of any potential interest in the property at issue. Plaintiffs in a Federal condemnation action must only join as defendants "those persons who have or claim an interest in the property." Fed. R. Civ. P. 71.1(c)(3) "The Court may at any time dismiss a defendant

who was unnecessarily or improperly joined.” Fed. R. Civ. P. 71.1(i)(2). The Burlisons have superior title to the property and Edwards has done nothing to suggest otherwise. Because Edwards and the Estate no longer have or claim an interest in the property at issue, the United States no longer needs to join them as defendants.

III. Conclusion

For the reasons set forth herein, the United States’ Motion to Dismiss Defendants Hunter Edwards and the Estate of Martha Dean Johnson is GRANTED.

IT IS SO ORDERED this 23rd day of September, 2013.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE