

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

JUDY WHITE,)	
)	
Plaintiff,)	
)	
VS.)	No. 13-2173-JDT/tmp
)	
DELORES STEPHENS, et al.,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE ON DEFENDANTS' MOTION TO DISMISS

Magistrate Judge Tu M. Pham has issued a report in this matter [DE# 99], recommending that Defendants' motion to dismiss [DE# 80] be partially granted and partially denied. Specifically, Magistrate Judge Pham has recommended that any claims brought pursuant to the Americans with Disabilities Act ("ADA") and/or the Rehabilitation Act of 1973 be dismissed, as well as claims for assault and/or sexual assault under the Federal Tort Claims Act ("FTCA"). Magistrate Judge Pham has also recommended that Plaintiff's claim under the First Amendment for retaliation not be dismissed. Additionally, he has recommended that any "motions" purportedly contained in Plaintiff's response be denied.

Defendants have filed objections to the report and recommendation [DE# 105]. Additionally, Defendants have filed a second motion to dismiss [DE# 106]. Defendants' objections are better suited to be decided when the court rules on the second motion to dismiss. Although Plaintiff received an extension of time in which to file her objections [DE#

104], she has not done so.¹

Having carefully reviewed the record and the controlling case law, the court agrees with Magistrate Judge Pham's decision. Because he thoroughly explained his decision and because an issuance of a more detailed written opinion would be unnecessarily duplicative and would not enhance this court's jurisprudence, the court ADOPTS the report and recommendation of Magistrate Judge Pham for the reasons set forth in his order.

Accordingly, the motion to dismiss [DE# 80] is PARTIALLY GRANTED and PARTIALLY DENIED. Claims brought pursuant to the Americans with Disabilities Act ("ADA") and/or the Rehabilitation Act of 1973 and claims for assault and/or sexual assault under the Federal Tort Claims Act ("FTCA") are hereby DISMISSED. Plaintiff's claim under the First Amendment for retaliation will be allowed to proceed. Any motions contained in Plaintiff's response are DENIED.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ On September 24, 2014, the office of the clerk of the court received a phone call from Plaintiff in which she stated that she has not been receiving documents filed in this case. Plaintiff has submitted no evidence that Defendants' counsel did not actually mail documents to her address of record, and the court is confident counsel would not deliberately fail to do so. Moreover, the docket sheet does not show that any mail sent to Plaintiff by the court has been returned.