

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

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CHARLEY MAE MARTIN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:14-cv-02145-JTF-dkv
	)	
M and T BANK , et al.,	)	
	)	
Defendants.	)	
	)	

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**ORDER ADOPTING MAGISTRATE JUDGE’S  
REPORT AND RECOMMENDATION**

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Before the Court is the Plaintiff’s Motion for Leave to Proceed *in forma pauperis* filed on February 28, 2014. (DE #2). On March 6, 2014, this matter was referred to the Magistrate Judge pursuant to 28 U.S.C. §§636- 639. (DE #3). On March 10, 2014, the Magistrate entered an Order directing Plaintiff to submit within thirty (30) days, or by April 10, 2014, a completed *in forma pauperis* application and affidavit in compliance with the requirements of 28 U.S.C. §1746. (DE #5). On April 17, 2014, the Magistrate Judge issued her report and recommendation that Plaintiff’s case be dismissed *sua sponte* for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). (DE #9). To date, Plaintiff has not filed any objections to the Magistrate Judge’s report and recommendation to dismiss her case without prejudice in accordance with Fed. R. Civ. P. 72(b)(2).<sup>1</sup> On April 24, 2014, Plaintiff submitted a revised application to proceed *in forma pauperis* to which Defendants filed an Objection on the same day.<sup>2</sup> (DE #10 and DE #11).

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<sup>1</sup> Fed. R. Civ. P. 72(b)(2) provides that within fourteen (14) days after being served a copy of the recommended disposition, a party may serve and file written objections to the proposed findings and recommendations. The Magistrate Judge indicated in the report and recommendation that failure to file objections within the required fourteen (14) days may constitute a waiver.

<sup>2</sup> DE #2, DE #2-1 and DE #2-2. Plaintiff’s first Affidavit and Declaration in reference to her request for leave to proceed *in forma pauperis* indicated that she is a “National of the United States” and that she was “exempt from

After reviewing the entire record, including the Magistrate Judge's report and recommendation, Plaintiff's contradictory and incomplete Applications for Leave to Proceed *in forma pauperis*, Defendants' Objection to Plaintiff's Motion, as well as, her failure to timely comply with the Magistrate Judge's Order, the Court hereby ADOPTS the Magistrate Judge's Report and Recommendation and ORDERS this case DISMISSED without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). By adopting the Magistrate Judge's Report and Recommendation to *sua sponte* dismiss the case for failure to prosecute, Defendants' Motion to Dismiss for Failure to State a Claim filed on March 17, 2014, is rendered MOOT.

**IT IS SO ORDERED** this 28th day of May, 2014.

BY THIS COURT:

*s/John T. Fowlkes, Jr.*  
JOHN T. FOWLKES, JR.  
UNITED STATES DISTRICT JUDGE

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costs, filing fees and charges imposed by any courts pursuant to the Constitution. The AO 239 Application indicates that she is a 54 year old lady having no income, no monthly expenses, no motor vehicle, no real estate or other resources.

DE # 10 and DE #10-1. In her second application for leave to proceed *in forma pauperis*, Plaintiff indicated that she is an 81 year old who receives support from her children. Attached to the AO 239 Application is a letter that again reiterates that she is not required to pay any fees and that the Constitution renders 28 U.S.C. §1914(a) unenforceable. An Application and Affidavit do not accompany this revised entry.