

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

| | | |
|-------------------------------|---|-------------------------|
| WILLIAM R. ReVOAL, II, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Case No. 14-4076 |
| v. |) | |
| |) | |
| SAM BROWNBACK, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

ORDER

On September 29, 2014, United States Magistrate Judge Karen Humphreys issued a Report and Recommendation (Doc. 5), wherein she recommended that this action be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B). Magistrate Judge Humphreys advised plaintiff, who filed this action pro se, of his right to object to the Report and Recommendation within fourteen days, or by October 14, 2014, and further advised that failure to make a timely objection to the Report and Recommendation waives any right to appellate review of the proposed findings of fact, conclusions of law, or recommended disposition.

To date, plaintiff has not filed an objection to the Report and Recommendation, nor has he sought any extension of time to file an objection. The court notes that it appears the address which this pro se plaintiff provided to the court may no longer be current, as the certified and regular mailings to plaintiff were returned to the court as “not deliverable as addressed” and “unable to forward.” (Docs. 6 and 7.)

The Report and Recommendation was sent to plaintiff’s last known address: 2800 North Hillside, Wichita, Kansas 67219, which is the address plaintiff supplied to the clerk’s office when he filed this action and the address he stated on his Affidavit of Financial Status (Doc. 3). Local Rules

require pro se parties to “notify the clerk in writing of any change of address or telephone number.” D. Kan. Rule 5.1(c)(3). “Any notice mailed to the last address of record of an attorney or pro se party is sufficient notice.” (*Id.*) Indeed, “it would be unreasonable to require courts to wade through a party’s file in order to determine the most recent or most likely address at which to contact the party.” *Theede v. U.S. Dept. of Labor*, 172 F.3d 1262, 1267 (10th Cir. 1999) (holding pro se plaintiff’s objections to magistrate’s report and recommendation untimely and not appealable where report was mailed to plaintiff’s last known address, even though that was not actually his current address).

The court determines that service of the Report and Recommendation was accomplished by “mailing it to [plaintiff’s] last known address—in which event service [was] complete upon mailing.” Fed. R. Civ. P. 5(b)(2)(C). With no objection to the Report and Recommendation being filed within the time prescribed, and no extension of time to file an objection being sought by plaintiff, the court accepts, adopts and affirms the Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED that, after reviewing the file *de novo*, the Report and Recommendation issued by United States Magistrate Judge Karen Humphreys on September 29, 2014 is ACCEPTED, ADOPTED and AFFIRMED. The court hereby dismisses this action without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B).

IT IS SO ORDERED.

Dated this 16th day of October, 2014, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge