

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

HEATHER HASENBANK,

Plaintiff,

v.

**DR. CHARLES GIBBS,
THE UNIVERSITY OF KANSAS
HOSPITAL, and TIFFANY MOORE,**

Defendants.

Case No. 16-cv-4139-DDC-KGS

ORDER

On August 31, 2016, Magistrate Judge K. Gary Sebelius issued a Report and Recommendation (Doc. 6), recommending dismissal of this lawsuit under 28 U.S.C. § 1915(e)(2)(B)(ii) because it fails to state a claim upon which relief may be granted.

As Judge Sebelius explained in his Report and Recommendation, plaintiff may serve and file objections to the Report and Recommendation under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72, within 14 days after service. Doc. 6 at 5. He also advised plaintiff that failing to make a timely objection to the Report and Recommendation would waive any right to appellate review of the proposed findings of fact, conclusions of law, or recommended disposition. *See id.* (explaining that “[i]f no objections are timely filed, no appellate review will be allowed by any court”). The Clerk sent a copy of the Report and Recommendation to plaintiff by certified mail. *See* Docket Entry for Doc. 6 (“A copy of this Report and Recommendation was sent to plaintiff by certified mail (Tracking No. 7010 2780 0003 1927 6591).”).

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); *see also ReVoal v. Brownback*, No. 14-4076, 2014 WL 5321093, at *1 (D. Kan. Oct. 16, 2014). “Mailing” occurred on August 31, 2016, when the Clerk mailed the Report and Recommendation to plaintiff. *See* Doc. 6. The time for plaintiff to file objections to the Report and Recommendation thus has expired.¹

To date, plaintiff has filed no objections to the Report and Recommendation, nor has she sought any extension of time to file an objection. Because plaintiff has filed no objection to the Report and Recommendation within the time prescribed, and she has sought no extension of time to file an objection, 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 Judge Sebelius on August 31, 2016 (Doc. 6) is **ACCEPTED, ADOPTED and AFFIRMED**. The court dismisses this action, without prejudice, under 28 U.S.C. § 1915(e)(2)(B)(ii).

IT IS SO ORDERED.

Dated this 30th day of September, 2016, at Topeka, Kansas

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge

¹ Plaintiff’s deadline for responding is extended by three days under Fed. R. Civ. P. 6(d), because service was made by mail. Even adding these three additional days to the 14-day response time, the deadline for responding to Judge Sebelius’ Report and Recommendation has expired.