

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

MELISSA DAWN WILSON,)
)
 Plaintiff,)
)
 v.)
)
 HOUSING AUTHORITY OF SILVER)
 LAKE, KANSAS et al.,)
)
 Defendants.)

Case No. 19-04026-HLT-ADM

MEMORANDUM AND ORDER

This matter comes before the court on plaintiff Melissa Dawn Wilson’s motion for reconsideration (ECF No. 19) of the undersigned’s report and recommendation (ECF No. 14) to the district judge. For the reasons discussed below, the court denies Ms. Wilson’s motion.

I. BACKGROUND

Ms. Wilson, proceeding pro se and *in forma pauperis*, filed an amended complaint (ECF No. 7) on May 2, 2019, against defendants Housing Authority of Silver Lake, Kansas, Mike Dallman, and Denise Dallman (the individual defendants referred to collectively herein as the “Dallmans”). Ms. Wilson’s amended complaint alleges that she was discriminated against in violation of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*; § 504 of the Rehabilitation Act of 1973 (“RA”), 29 U.S.C. § 794; and Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131 *et seq.* The undersigned screened Ms. Wilson’s amended complaint pursuant to 28 U.S.C. § 1915(e)(2) and determined that she failed to state a claim upon which relief can be granted under the RA and ADA against the Dallmans because those statutes do not impose individual liability.

On May 30, 2019, the undersigned recommended to the district judge that Ms. Wilson's RA and ADA claims be dismissed without prejudice as to the Dallmans. Ms. Wilson was served with a copy of the report and recommendation ("R&R") on June 5, 2019. (*See* Certified Mail Receipt (ECF No. 16).) She then filed the instant motion for reconsideration of the R&R on June 21, 2019. The Dallmans oppose. (*See* Defs.' Response (ECF No. 22).)

II. DISCUSSION

Ms. Wilson's motion is untimely and raises no valid basis for reconsideration of the undersigned's R&R.

1. Timeliness

A party "seeking reconsideration of non-dispositive orders must file a motion within 14 days after the order is filed." D. KAN. RULE 7.3(b). Here, the R&R at issue was filed on May 30, 2019. Ms. Wilson was required to file a motion for reconsideration within 14 days, so on or before June 13. She did not file her motion until June 21, which was more than 14 days after the R&R was filed.¹ Ms. Wilson's motion is therefore denied as untimely.

2. Bases for Reconsideration

Even if Ms. Wilson had timely filed her motion for reconsideration, the court's decision would remain the same. A motion for reconsideration of a prior order must be based on (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct clear error or prevent manifest injustice. D. KAN. RULE 7.3(b). Ms. Wilson's motion is not based on any of these grounds. Instead, she reiterates an allegation made in her amended

¹ Even if D. Kan. Rule 7.3(b) allowed a party to file a motion for reconsideration within 14 days of *service* of the order at issue (which it does not), the court notes that Ms. Wilson filed the instant motion more than 14 days after June 5, 2019—the date she was served with a copy of the R&R. (*See* Certified Mail Receipt (ECF No. 16).)

complaint: her belief that the federal Department of Housing and Urban Development did not thoroughly investigate her claims at the administrative stage. (*See* Pl.’s Mot. (ECF No. 19), at 1.) She also states that she is in the process of trying to retain an attorney to represent her in this case (*Id.* at 2.) Ms. Wilson does not identify any intervening change in controlling law, new evidence, or clear error that must be corrected to prevent manifest injustice. Ms. Wilson’s motion is therefore denied because it does not raise any valid basis for reconsideration of the undersigned’s R&R.

Accordingly,

IT IS THEREFORE ORDERED that plaintiff’s Melissa Dawn Wilson’s motion for reconsideration (ECF No. 19) of the undersigned’s report and recommendation (ECF No. 14) is denied.

IT IS SO ORDERED.

Dated July 8, 2019, at Topeka, Kansas.

s/ Angel D. Mitchell
Angel D. Mitchell
U.S. Magistrate Judge