

FILED

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

DEC 5 2012

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By _____
Deputy Clerk

STEPHEN BURNETT,)
)
Plaintiff,)
)
v.)
)
KATHY MILLER, et al.,)
)
Defendants.)

No. CIV 12-158-RAW-SPS

OPINION AND ORDER

On June 6, 2012, the court denied plaintiff’s motion for leave to proceed *in forma pauperis* and directed him to pay the entire filing fee (Docket No. 6). On June 18, 2012, he filed a motion for reconsideration of the *in forma pauperis* ruling (Docket No. 9), but paid the entire filing fee on July 13, 2012. The court denied the motion for reconsideration on August 27, 2012 (Docket No. 28). On that same date, the court entered an Order Staying Proceedings and Requiring Special Report, directing the defendants to file within 60 days a written report addressing the allegations in the complaint, along with the defendants’ answer or dispositive motion (Docket No. 30). Those filings are more than a month overdue.

On September 17, 2012, plaintiff filed a notice of appeal of the denial of his *in forma pauperis* application (Docket No. 31), and the appeal still is pending before the Tenth Circuit Court of Appeals. Because plaintiff has paid the required filing fee for this action, the appeal did not affect the schedule of this case. Plaintiff alleges the defendants’ attorney has advised him by letter that the attorney “believed” the appeal somehow had stayed the already-stayed case (Docket No. 46 at 1). Defense counsel has not made any filings with the court regarding this issue.

On October 31, 2012, the court allowed plaintiff to file a motion for an emergency injunction, because he was claiming a denial of treatment for his serious medical needs (Docket No. 41). The motion, however, was found to be meritless (Docket No. 52). Plaintiff is hereby advised again of the instructions set forth in the Order Staying Proceedings and

Requiring Special Report:

All pending motions in this case are hereby stricken without prejudice. No [additional] applications, motion, or discovery should be filed or considered until the steps set forth in this Order have been completed, except as the court further orders.

(Docket No. 30 at 2).

ACCORDINGLY, (1) the defendants are directed to show cause in writing within seven (7) days for their failure to comply with the Order Staying Proceedings and Requiring Special Report, and (2) plaintiff's pending motions (Docket Nos. 46, 47, 48, 49, 50, and 51) are stricken without prejudice.

IT IS SO ORDERED this 5th day of December 2012.


RONALD A. WHITE
UNITED STATES DISTRICT JUDGE