

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

ANDREW F. DUFFY, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-09-529-D
	)	
JEFF FRANKLIN, Verden Police Chief, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER OF DISMISSAL**

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Valerie K. Couch issued July 28, 2009, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Upon initial review of the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Judge Couch recommends a dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted.

Plaintiff, who appears *pro se* and *in forma pauperis*, has neither filed a timely objection to the Report nor requested additional time to object. The Court therefore finds Plaintiff has waived further review. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, upon *de novo* consideration of the issues, the Court finds Judge Couch's analysis to be correct. Therefore, the Court adopts the Report and Recommendation [Doc. No. 10] in its entirety.

IT IS THEREFORE ORDERED that the action is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The dismissal shall count as a "prior occasion" or strike pursuant to 28 U.S.C. § 1915(g) after Plaintiff has exhausted or waived his right to appeal.

IT IS SO ORDERED this 27<sup>th</sup> day of August, 2009.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE