

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

DALE E. HARPER,)	
)	
Plaintiff,)	
vs.)	NO. CIV-10-1394-HE
)	
WOODWARD COUNTY BOARD OF)	
COUNTY COMMISSIONERS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner appearing *pro se*, filed this action pursuant to 42 U.S.C. §1983. The court dismissed the case without prejudice on April 15, 2011, due to plaintiff’s failure to cure certain deficiencies in his motion to proceed *in forma pauperis*. Plaintiff then filed a motion to reopen, asserting he had the monies required to pay the filing fee in his trust fund account.

The court treated plaintiff’s motion as one seeking relief from a judgment under Fed.R.Civ.P. 60(b), granted it and vacated the March 15, 2011, Order and Judgment. Plaintiff was directed to submit a completed *in forma pauperis* application within twenty days and the matter was again referred to Magistrate Judge Purcell for further proceedings in accordance with 28 U.S.C. § 636.


The magistrate judge has issued a Supplemental Report and Recommendation stating that plaintiff has not filed any further pleadings or paid the filing fee. He again recommends that the action be dismissed without prejudice.

Petitioner failed to object to the magistrate judge’s Report and Recommendation and thereby waived his right to appellate review of the factual and legal issues it addressed.

United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Purcell's Supplemental Report and Recommendation and dismisses this action without prejudice.

IT IS SO ORDERED.

Dated this 25th day of July, 2011.



JOE HEATON
UNITED STATES DISTRICT JUDGE