

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

**FILED**

JAN - 5 2012

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY Tuh DEPUTY

SCOTT W. SMITH, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 BROCK JOHNS, Senior United States )  
 Probation Officer, )  
 )  
 Respondent. )

No. CIV-11-11-W

**ORDER**

On December 2, 2011, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this matter and recommended that the claims asserted by petitioner Scott W. Smith regarding his placement on Mandatory Supervised Release ("MSR") and regarding the conditions of that release be denied as moot. Magistrate Judge Roberts further recommended that all other claims asserted by Smith in this matter be dismissed without prejudice.

Smith and respondent Brock Johns, Senior United States Probation Officer, were advised of their right to object to the Report and Recommendation, see Doc. 20 at 5, but no objections have been filed within the allotted time.

Upon review of the record, the Court concurs with Magistrate Roberts' suggested disposition of this matter. Smith's challenges to his placement on MSR and to the terms of his release are moot due to Smith's re-incarceration in the United States Disciplinary Barracks ("USDB"), Fort Leavenworth, Kansas. Since Smith is no longer within the territorial limits of the Western District of Oklahoma, dismissal of Smith's remaining claims

is warranted since this Court lacks jurisdiction over Smith's custodian, the USDB Commandant.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 20] issued on December 2, 2011;

(2) DENIES as MOOT Smith's challenges to his placement on MSR and to the conditions of his release; and

(3) DISMISSES without prejudice to refiling all other claims asserted by Smith in this matter.

ENTERED this 5th day of January, 2012.



LEE R. WEST  
UNITED STATES DISTRICT JUDGE