

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

HERBERT R. LEWIS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-11-0196-F
	)	
R.B. HAUF, Sheriff, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Herbert R. Lewis, Jr., a state prisoner appearing *pro se* and *in forma pauperis* whose pleadings are liberally construed, has filed a civil rights action pursuant to 42 U.S.C. § 1983. The April 11, 2011, Report and Recommendation of Magistrate Judge Valerie K. Couch (doc. no. 9) recommends that the complaint be dismissed *sua sponte* for failure to state a claim upon which relief may be granted and on the ground that plaintiff seeks monetary relief against a defendant who is immune from such relief. The Report also recommends that the dismissal count as a “strike” pursuant to 28 U.S.C. §1915(g) after plaintiff has exhausted or waived his appeals. The Report advised that any objection to the Report must be filed by May 2, 2011, and that failure to make timely objection to the Report waives the right to appellate review of factual and legal issues addressed in the Report. No objection to the Report has been filed, and no request for an extension of time within to file such an objection has been sought.<sup>1</sup>

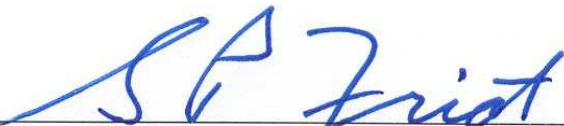
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<sup>1</sup>Plaintiff’s copy of the Report was returned to the court as undeliverable at that address. (Doc. no. 10.)

Having conducted its own review, and with there being no objection, the court finds that it agrees with the Report. It further finds that no purpose would be served by stating any further analysis here.

Accordingly, the Report and Recommendation of Magistrate Judge Couch is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. This action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § § 1915 and 1915A for failure to state a claim upon which relief may be granted, and on the ground that plaintiff seeks monetary relief against a defendant who is immune from such relief. It is further ordered that this dismissal count as a “strike” pursuant to 28 U.S.C. § 1915(g) after plaintiff has exhausted or waived his appeals.

Dated this 4<sup>th</sup> day of May, 2011.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE