

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

**FILED**

MAR - 6 2013

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

STEPHEN JOSEPH BOLLENBACH,    )  
  )  
                                  Plaintiff,    )  
  )  
vs.                                        )  
  )  
STATE OF OKLAHOMA et al.,        )  
  )  
                                  Defendants.    )

No. CIV-11-857-W

**ORDER**

On January 31, 2013, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this matter and recommended that the Court grant the Motion to Dismiss, or in the Alternative, Motion for Summary Judgment filed by defendant Eldon Dickson, individually and in his official capacity as undersheriff for the Kingfisher County Sheriff's Office. Plaintiff Stephen Joseph Bollenbach, proceeding pro se, did not respond to Dickson's request for dismissal or for summary judgment; he likewise has filed no objections to the Report and Recommendation within the allotted time.

Accordingly, the Court, upon its review of the record, concurs with Magistrate Judge Erwin's decision to consider the matter under Rule 56, F.R.Civ.P., and his suggested disposition of Dickson's request for summary judgment. Bollenbach has failed to establish a genuine issue of material fact with regard to Dickson's personal involvement in subjecting Bollenbach to the allegedly unconstitutional conditions of confinement about which he has complained. The Court likewise finds that Bollenbach has failed to establish for purposes of his claims against Dickson in his official capacity that Dickson had final policymaking authority with regard to the Kingfisher County Jail. Finally, the Court finds that

Bollenbach's claim grounded on the monitoring and collection of his urine sample, which accrued no later than October 23, 2008, is time-barred. See 12 O.S. § 95(A)(3).


Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 67] filed on January 31, 2013;

(2) GRANTS under Rule 56, supra, the Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Doc. 50] filed by Dickson, in his individual and official capacities, on April 16, 2012; and

(3) because the Report and Recommendation does not dispose of all issues raised by Bollenbach in his complaint, RE-REFERS this matter to Magistrate Judge Erwin for further proceedings.

ENTERED this 6<sup>th</sup> day of March, 2013.

  
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LEE R. WEST  
UNITED STATES DISTRICT JUDGE