

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

WESLEY D. FREE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-13-0087-F
	)	
OKLAHOMA DEPARTMENT OF	)	
CORRECTIONS, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff brings this action pursuant to 42 U.S.C. § 1983, alleging that his First Amendment and Eighth Amendment rights were violated by Defendant Oklahoma Department of Corrections (ODOC), and by Defendant Al Kelly, food service manager at the Lawton Corrections Center. The August 30, 2013, Supplemental Report and Recommendation by Magistrate Judge Gary M. Purcell, doc. no. 22 (the Report), recommends that defendant ODOC be dismissed from this action pursuant to 28 U.S.C. § 1915A(b), on the ground of immunity.<sup>1</sup> The Report advises that any objection to the Report must be filed by September 19, 2013, and states that failure to make timely objection to the Report waives appellate review of the recommended ruling. No objection to the Report has been filed, and no request for an extension of time has been sought.

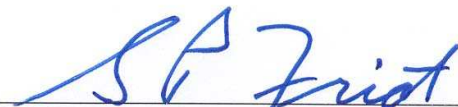
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<sup>1</sup>Doc. no. 22 also includes orders vacating as moot a prior order by the magistrate judge which had granted plaintiff leave to proceed in forma pauperis, and extending a deadline previously set by the magistrate judge for filing return of service reflecting service of process on Defendant Kelly.

Having reviewed the matter, and with there being no objection, the court agrees with the Report and finds that no purpose would be served by any further analysis here.

Accordingly, the Supplemental Report and Recommendation of Magistrate Judge Purcell is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. Plaintiff's claims against defendant Oklahoma Department of Corrections are **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b) on the ground of Eleventh Amendment immunity. This action remains referred.

Dated this 20<sup>th</sup> day of September, 2013.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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