

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

DAVID WHITMORE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-13-113-M
	)	
MIKE ROGERS, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On November 26, 2014, United States Magistrate Judge Charles B. Goodwin issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff’s federal constitutional rights during his incarceration at James Crabtree Correctional Center in Helena, Oklahoma. The Magistrate Judge recommended that plaintiff’s Motion for Certification of Interlocutory Appeal be denied.<sup>1</sup> Plaintiff was advised of his right to object to the Report and Recommendation by December 17, 2014. On January 26, 2015, plaintiff filed his objection.<sup>2</sup>

In his objection, plaintiff asserts that there is a disputed question of law that only the court of appeals can “conclusively” determine which is separate from the merits of this action. Upon de novo review, the Court finds that plaintiff has not shown “that an immediate appeal

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<sup>1</sup> Plaintiff’s seeks to appeal this Court’s October 23, 2014 Order adopting the Report and Recommendation dismissing plaintiff’s claims in his Amended Complaint challenging a June 2011 Misconduct plaintiff received for battery upon a prison staff member.

<sup>2</sup> On December 12, 2014, plaintiff filed a motion for extension to file his objection to the Report and Recommendation. The Court granted plaintiff’s motion and extended the deadline for plaintiff to file his objections until January 17, 2015. On January 20, 2015, plaintiff again filed a motion for extension to file his objections to the Report and Recommendation. The Court granted plaintiff’s motion and extended the deadline for plaintiff to file his objections until February 1, 2015.

from the order may materially advance the ultimate termination of the litigation.” *See* 28 U.S.C. § 1292(b).

Having carefully reviewed the matter de novo, the Court:

- (1) ADOPTS the Report and Recommendation [docket no. 98] issued by the Magistrate Judge on November 26, 2014; and
- (2) DENIES plaintiff’s Motion for Certification of Interlocutory Appeal [docket no. 95].

**IT IS SO ORDERED this 30th day of January, 2015.**

  
VICKI MILES-LaGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE