

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

ALVIN RELEFORD,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-13-128-C
)	
CLIFFORD BENARD, et al.,)	
)	
Defendants,)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff filed the present action pursuant to 42 U.S.C. § 1983, alleging his son was the victim of a murder or wrongful death while incarcerated in Oklahoma. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this matter was referred to United States Magistrate Judge Suzanne Mitchell. Judge Mitchell entered a Report and Recommendation (“R&R”) on May 20, 2014, recommending dismissal without prejudice. Plaintiff has filed a document entitled “Plaintiff Alvin Relerford Motion for Continuation.” The Court will treat this pleading as an objection to the R&R.

In the R&R, Judge Mitchell sets out the history of this case. In summary, Plaintiff filed his action on February 4, 2013. Despite numerous extensions of time and warnings that failure to obtain service would result in dismissal, to date Plaintiff has properly served only Defendant Benard. Judge Mitchell recommends dismissal of the remaining Defendants pursuant to Fed. R. Civ. P. 4 for failure to timely serve. In his Motion construed as an Objection, Plaintiff repeats his claim of being unable to achieve service. Plaintiff offers no

evidence or argument demonstrating he has a plan to obtain proper service over the remaining Defendants if given additional time. As Judge Mitchell noted, this case has been pending for over 14 months. Plaintiff has been given multiple opportunities to obtain service with no success. This matter will be dismissed for failure to obtain service as to all Defendants other than Defendant Benard.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 32), and for the reasons announced therein, DISMISSES Plaintiff's claims against Defendants Patterson, McKinney, McCarver, Thornburger, and Unknown Warden, Oklahoma Community Correctional Facility, without prejudice. This matter is returned to Judge Mitchell under the terms of the Order of Referral for handling Plaintiff's claims against Defendant Benard.

IT IS SO ORDERED this 20th day of June, 2014.


ROBIN J. CAUTHRON
United States District Judge