

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

OMAR HILL, JR.)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-13-1126-D
)	
MATTHEW CATES, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court for review of the Report and Recommendation [Doc. No. 17] issued by United States Magistrate Judge Charles B. Goodwin pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Plaintiff, an inmate appearing *pro se*, filed this action to assert violations of his constitutional rights under 42 U.S.C. § 1983 and sought leave to proceed *in forma pauperis*. On January 17, 2014, Magistrate Judge Goodwin entered an Order [Doc. No. 12] and granted Plaintiff's application to proceed *in forma pauperis*. Plaintiff was directed to pay an initial partial filing fee in the sum of \$108.59, on or before February 17, 2014, and advised that his failure to do so could result in dismissal of the action. As of March 20, 2014, Plaintiff had remitted payments totaling only \$45.00 without requesting relief from the requirement that he pay the sum of \$108.59 on or before February 17, 2014. Instead, Plaintiff filed a new motion for leave to proceed *in forma pauperis* [Doc. No. 13].

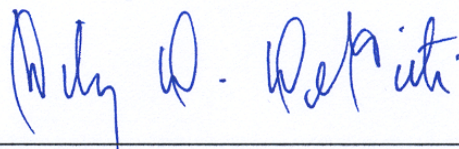
In the Report and Recommendation issued on March 20, 2014, Magistrate Judge Goodwin found Plaintiff's renewed motion to proceed *in forma pauperis* alone was inadequate to either show good cause for Plaintiff's failure to pay the initial partial filing fee or warrant the Court's reconsideration of the fee and that it should be denied. In addition, the Magistrate Judge recommended that Plaintiff be ordered to pay the remaining \$63.59 of his initial partial filing fee within 21 days of any order adopting the Report and Recommendation and that the action be

dismissed without prejudice to refiling if Plaintiff failed to timely remit the fee or show good cause for failing to do so. The Magistrate Judge specifically advised Plaintiff of his right to object to the findings and recommendations set forth therein. He further advised Plaintiff that his failure to timely object would constitute a waiver of his right to appellate review of the factual and legal matters in the Report and Recommendation. Plaintiff's deadline for filing objections was April 10, 2014.

To date, Plaintiff has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so. Accordingly, the Court adopts the Report and Recommendation [Doc. No. 17] in its entirety and Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [Doc. No. 13] is DENIED.

The Court docket further reflects that on April 8, 2014, Plaintiff paid the remaining \$63.59 of his initial partial filing fee. *See* Receipt for Payment [Doc. No. 18]. Plaintiff has not explained his failure to comply with the previous orders entered by the Magistrate Judge and the Court notes the concern of the Magistrate Judge that Plaintiff's "sporadic and incomplete submissions raise a question as to whether he is attempting to abuse the privilege of proceeding *in forma pauperis*." Report and Recommendation [Doc. No. 17] at p. 5. However, at this time, because Plaintiff has complied with the Court's directive to pay the remaining \$63.59 of the initial filing fee, the matter shall proceed before Magistrate Judge Goodwin pursuant to the Court's previous referral order [Doc. No. 5].

IT IS SO ORDERED this 15th day of April, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE