

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

JOHNATHAN C. LARGE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-13-1243-F
)	
BECKHAM COUNTY DISTRICT)	
COURT,)	
)	
Defendant.)	

ORDER


Before the court are the Report and Recommendation of United States Magistrate Judge Charles B. Goodwin (doc. no. 9) and Plaintiff’s Objection (doc. no. 13) to the Report and Recommendation.

Most of plaintiff’s objection is irrelevant, but plaintiff does contend that 42 U.S.C. § 1983 waived states’ Eleventh Amendment immunity. Plaintiff is simply wrong. See Quern v. Jordan, 440 U.S. 332, 338-40 (1979) (§ 1983 does not override a state’s Eleventh Amendment immunity); Muscogee (Creek) Nation v. Oklahoma Tax Commission, 611 F.3d 1222, 1227 (10th Cir. 2010); Jones v. Courtney, 466 Fed.Appx. 696, 700 (10th Cir. Feb. 16, 2012) (Congress did not abrogate Eleventh Amendment immunity in enacting 42 U.S.C. § 1983).

The court has carefully reviewed the Report and Recommendation in light of Plaintiff’s Objection and the record herein. The court fully concurs in the findings, conclusions and recommendations of the magistrate judge. Therefore, the Report and Recommendation is **ADOPTED**, and Plaintiff’s Complaint is **DISMISSED** without

prejudice because defendant is immune from suit pursuant to the Eleventh Amendment and plaintiff has failed to state a claim under 42 U.S.C. § 1983 on which relief can be granted. The dismissal of this case shall count as a third “prior occasion” or “strike” pursuant to 28 U.S.C. § 1915(g). Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* (doc. no. 7) is **DENIED**. Plaintiff’s motion for an order allowing him to submit documents (doc. no. 8) is also **DENIED**.

DATED January 22, 2014.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE