

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

MASALA JAMES,)	
)	
Plaintiff,)	
vs.)	NO. CIV-14-146-HE
)	
WILLIAM A. SHERROD, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner appearing *pro se*, filed this action pursuant to 42 U.S.C. §1983 alleging violations of his constitutional rights. Pursuant to 28 U.S.C. §636(b)(1)(B) and (C), the matter was referred for initial proceedings to Magistrate Judge Bernard M. Jones. He has recommended that plaintiff’s claims against defendants William A. Sherrod, S. Solis and S. Defibaugh be dismissed without prejudice to refiling. Plaintiff has filed an objection.

The magistrate judge previously recommended that plaintiff’s claims against defendants Sherrod, Solis and Defibaugh be dismissed for failure to effect timely service and to respond to the court’s show cause order. The magistrate judge recommended dismissal again when, after he was granted an additional 45 days to effect service, plaintiff waited until the last day to have summons issued and then attempted to serve the defendants at the headquarters of their former employer, Corrections Corporation of America (“CCA”), though he knew none of the defendants still worked at any CCA location. *See* Doc. Nos. 32, 33, 34.

Plaintiff filed an objection to the Report and Recommendation, stating that he did not attempt to serve defendants Sherrod, Solis and Defibaugh at CCA's corporate address, but had the summons sent there "with the sincere attempt to make service 'complete,'" since CCA headquarters has "all personnel information on its current and previous employees." Doc. #61, p. 2. Plaintiff then goes on to state that "to expedite the legal process . . . plaintiff is ready to move forward without said defendants" and he asks the court to dismiss the defendants without prejudice. *Id.* at p. 3.

Accordingly, in accordance with Magistrate Judge Jones's Report and Recommendation, which the court **ADOPTS**, and plaintiff's request, plaintiff's claims against defendants Sherrod, Solis and Defibaugh are **DISMISSED** without prejudice. The motion to quash [Doc. #65] filed on behalf of defendants Sherrod, Solis and Defibaugh and plaintiff's motion to strike [Doc. #66] are **STRICKEN** as moot.

IT IS SO ORDERED.

Dated this 6th day of March, 2017.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE