

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

CHARLES DAVID HARRIS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-14-236-D
)	
REECE LANE, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter is before the Court for review of the Report and Recommendation [Doc. No. 6] issued April 16, 2014, by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Erwin has recommended a dismissal of the action without prejudice to refile due to Plaintiff's failure to comply with the Court's order directing Plaintiff to cure deficiencies and clarify his intended cause(s) of action.

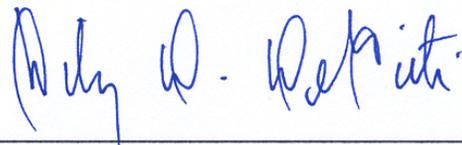
In the Report and Recommendation, the Magistrate Judge advised Plaintiff of his right to object to the findings and recommendations set forth therein. He further advised Plaintiff that his failure to timely object would constitute a waiver of his right to appellate review of the factual and legal matters in the Report and Recommendation. Plaintiff's deadline for filing objections was May 7, 2014.

A review of the case file reflects that Plaintiff has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so. It appears that Plaintiff's failure to object may be due to a lack of notice. On May 5, 2014, a copy of the Report and Recommendation mailed to Plaintiff at his address of record was returned as undeliverable. Nonetheless, the Court finds that any failure to receive a copy of the Report and Recommendation

does not provide a basis for an exception to the “firm waiver rule” governing appellate review because Plaintiff is responsible for providing notice of any change of address. *See Theede v. United States Dep’t of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (*pro se* plaintiff who failed to provide any change of address or address correction waived right to review by failing to make a timely objection); *see also* W.D. Okla. R. LCvR5.4(a) (requiring written notice of a change of address and further providing that papers sent by the Court are “deemed delivered if sent to the last known address given to the Court”). Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report and Recommendation.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 6] is ADOPTED in its entirety. Plaintiff’s action against Defendants is DISMISSED without prejudice to refiling. Because no other claims remain pending, a separate judgment of dismissal shall be entered.

IT IS SO ORDERED this 4th day of June, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE