

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

ROGER DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-14-594-C
)	
OKLAHOMA DEPARTMENT OF)	
CORRECTIONS AND ROBERT)	
PATTON, as Director,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Plaintiff filed this action in the District Court of Oklahoma County, State of Oklahoma, arguing that certain provisions of Oklahoma’s Sex Offender Registration Act (“SORA”) violate the Oklahoma Constitution. Defendants removed the action asserting that Plaintiff’s assertion that SORA violated the Ex Post Facto Clause of the United States Constitution was sufficient to grant this Court jurisdiction pursuant to 28 U.S.C. § 1331. Defendants now seek dismissal pursuant to Fed. R. Civ. P. 12(b)(6), arguing Plaintiff has failed to state a claim for relief.

After considering the parties’ arguments, the Court finds the Plaintiff has failed to state a claim for violation of the U.S. Constitution’s Ex Post Facto Clause. As Defendants note, the U.S. Supreme Court has routinely held that laws such as SORA are not punitive in nature and do not have a punitive effect, at least to the extent they are measured by federal jurisprudence. However, the Oklahoma Supreme Court has reached a different conclusion in examining SORA as it impacts the Oklahoma Constitution’s ex post facto clause. Whether

or not the state clause was actually violated in Plaintiff's case hinges on facts and therefore cannot be resolved at this stage. Therefore, to the extent Plaintiff has asserted a claim for violation of the Oklahoma Constitution, he has pleaded a claim for relief.

As for Plaintiff's equal protection claim, the Court finds that resolution of that claim under both the U.S. and Oklahoma Constitutions requires intensive factual analysis that is improper at this stage. The allegations set forth in Plaintiff's state court Petition are sufficient to state a claim under both constitutions.

For the reasons set forth herein, Defendants The Oklahoma Department of Corrections and Robert Patton's Motion to Dismiss (Dkt. No. 3) is GRANTED in part. Plaintiff's claim for violation of the U.S. Constitution Ex Post Facto Clause is DISMISSED. In all other respects the Motion is DENIED.

IT IS SO ORDERED this 18th day of July, 2014.


ROBIN J. CAUTHRON
United States District Judge