

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

WILLIAM HENRY DEASE,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-14-0673-F
)	
JOHN WHETSEL; LT. BARNEY;)	
S. MAY; SGT. MARLAR; CORPAL)	
[sic] ORTIZ; ROVER ALVEREZ,)	
)	
Defendants.)	

ORDER

Plaintiff, a prisoner who appears *pro se* and whose pleadings are liberally construed, filed an amended complaint under 42 U.S.C. § 1983, alleging that defendants violated his constitutional rights. Magistrate Judge Suzanne Mitchell has made two Reports and Recommendations to this court. As stated in more detail below, each of the Reports, and all of their recommendations, are adopted in this order. As a result, all claims alleged in this action have been adjudicated or otherwise disposed of, and judgment will be entered accordingly.

The Report and Recommendation of October 29, 2015.

Defendants Alvarez, Marler, Ortiz and Whetsel moved to dismiss. Doc. no. 60. The magistrate judge notified the parties the motion would be treated as a motion to dismiss and/or as a motion for summary judgment. Doc. no. 61. The Report of October 29, 2015, doc. no. 66, recommends dismissal *with* prejudice of plaintiff’s individual- and official-capacity claims alleging inadequate grievance procedures, denial of access to the courts, and conspiracy to deny access to the courts. The Report recommends dismissal *without* prejudice of plaintiff’s individual- and official-capacity

claims involving his alleged denial of medical treatment at the Oklahoma County Detention Center (OCDC) following his September 2013 arrest, temporary subjection to toilet flooding and fecal matter, and denial of access to a medically-assigned bunk. The Report recommends the court grant summary judgment on plaintiff's allegations of retaliation and regarding defendant Whetsel's alleged involvement in plaintiff's September 2013 arrest. The Report also recommends denial of plaintiff's requests for injunctive and declaratory relief, as well as plaintiff's request for appointed counsel.

The October 29 Report advises plaintiff of his right to file an objection to the Report by November 18, 2015. The Report further advises that failure to make timely objection to the Report waives plaintiff's right to appellate review of both factual and legal issues contained in the Report.

Plaintiff has not filed an objection or response to the Report, and plaintiff has not sought an extension of time within which to file any objection or response.

After review of the issues covered in the Report, with no objection having been filed, and having concluded that no further analysis is necessary, the October 29, 2015 Report and Recommendation is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety.

Accordingly, the motion to dismiss and/or for summary judgment is **GRANTED**, as follows. The claims which are hereby **DISMISSED** with prejudice are plaintiff's individual- and official-capacity claims alleging inadequate grievance procedures, denial of access to the courts, and conspiracy to deny access to the courts. The claims which are hereby **DISMISSED** without prejudice are plaintiff's individual- and official-capacity claims involving his alleged denial of medical treatment at OCDC following plaintiff's September 2013 arrest, temporary subjection to toilet flooding and fecal matter, and denial of access to a medically-assigned bunk. Defendants are **GRANTED SUMMARY JUDGMENT** on plaintiff's allegations of

retaliation and defendant Whetsel's involvement in plaintiff's September 2013 arrest. Plaintiff's requests for injunctive and declaratory relief, and plaintiff's request for appointed counsel, are **DENIED**.

2. The Report and Recommendation of November 5, 2015.

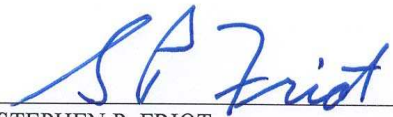
The Report of November 5, 2015, doc. no. 67, recommends that the court dismiss defendants S. May and Lt. Barney without prejudice, for lack of service.

The Report advises plaintiff of his right to file an objection to the Report by November 25, 2015. The Report further advises that failure to make timely objection to the Report waives plaintiff's right to appellate review of both factual and legal issues contained in the Report.

Plaintiff has not filed an objection or response to the Report, and plaintiff has not sought an extension of time within which to file any objection or response.

After review of the issues covered in the Report, with no objection having been filed, and having concluded that no further analysis is necessary, the November 5, 2015 Report and Recommendation is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. Defendants S. May and Lt. Barney are hereby **DISMISSED** without prejudice.

Dated this 15th day of December, 2015.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE