

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

FILED

JUN 10 2015

JASON CARLISLE,

Plaintiff,

vs.

SCOTT JAY, Sheriff, and DIANA
BILBO, Captain,

Defendants.

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY WA, DEPUTY

No. CIV-14-1335-W

ORDER

On April 16, 2015, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this matter and urged the Court to dismiss the action without prejudice because plaintiff Jason Carlisle had failed to pay the initial filing fee of \$37.87 as ordered. See Doc. 13 at 1; Doc. 14 at 2. Magistrate Judge Erwin advised Carlisle that he had the right to object to that recommendation, and he warned Carlisle that his failure to object waived Carlisle's right to appellate review of both the factual findings and all legal issues decided in the Report and Recommendation. See id. at 2-3 (citation omitted).

The Clerk of the Court mailed a copy of the Report and Recommendation to the address listed by Carlisle in his complaint [Doc. 1]. See Rule 5.4(a), Rules of the United States District Court for the Western District of Oklahoma (papers sent to last known address deemed delivered). The document was returned to the Clerk by the United States Postal Service with the following notations on the envelope: "Return to Sender Not Deliverable as Addressed Unable to Forward" and "No Longer Here Return to Sender." Doc. 15 at 5.

Rule 5.4(a), supra, requires pro se litigants to provide the Court with a mailing address and to notify the Clerk of any change of address. In compliance with that rule, Carlisle by letter dated May 5, 2015, advised that he had been transferred from Beckham County Detention Center in Sayre, Oklahoma, to William S. Key Correctional Center in Fort Supply, Oklahoma. See Doc. 16. Under the circumstances, the Court found that Carlisle should be given the opportunity to exercise his right to object to Magistrate Judge Erwin's findings and conclusions. Accordingly, on May 8, 2015, the Court directed the Clerk to remail Carlisle a copy of the Report and Recommendation and extended Carlisle's deadline to file his objections, if any, to the Report and Recommendation. See Doc. 18.

Carlisle has neither filed an objection, nor sought an extension of time to do so. Upon review of the record, the Court concurs with Magistrate Judge Erwin's suggested disposition of this matter.

On March 6, 2015, Carlisle was granted leave to proceed without prepayment of the filing fee in full, but he was ordered to make an initial partial payment of \$37.87. See Doc. 13 at 1. He was advised that his failure to do so or to show cause in writing for his failure to pay would result in dismissal of this action. See id.

As the record reflects, Carlisle has not complied with Magistrate Judge Erwin's Order. He has neither paid the initial partial payment nor shown good cause for his inaction.

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 14] issued on April 16, 2015;
- (2) DISMISSES this matter without prejudice to refiling; and
- (3) in doing so, deems MOOT Carlisle's requests received by the Clerk on

December 23, 2014, for legal aid and for an order directing Beckham County Detention Center, where Carlisle was then incarcerated, "to surrender records of [his] account[.]" Doc 9.

ENTERED this 10th day of June, 2015.



LEE R. WEST
UNITED STATES DISTRICT JUDGE