

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

FREDERICK BANKS and KENNETH	)	
POSNER,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. CIV-14-1427-F
	)	
NEW YORK POLICE DEPARTMENT,	)	
et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiffs, appearing *pro se*, have filed a document entitled “Indictment and Petition for Writ of Mandamus Complaint.” Complaint, doc. no. 1. Plaintiffs’ pleadings are liberally construed.


Magistrate Judge Shon T. Erwin has issued a Report and Recommendation (doc. no. 8) recommending that plaintiffs’ motions to proceed in forma pauperis (doc. nos. 4, 5) be denied. The Report also finds that much of the complaint is based on claims which are frivolous, malicious, or fail to state a claim upon which relief may be granted, and that plaintiffs have named defendants over whom this court does not have personal jurisdiction. Accordingly, in addition to recommending denial of the in forma pauperis motions, the Report recommends that the complaint be dismissed.

The Report advised plaintiffs that failure to make timely objection to the Report by April 6, 2015, waives their right to appellate review of both factual and legal

matters contained in the Report. No objection to the Report has been filed and no extension of time within which to object has been sought.<sup>1</sup>

Having conducted its own review and with no objection having been filed, the Report of Magistrate Judge Erwin is **ACCEPTED, ADOPTED** and **AFFIRMED**. As recommended in the Report, plaintiffs' motions to proceed in forma pauperis, doc. nos. 4, 5 are **DENIED**, and this action is dismissed pursuant to 28 U.S.C. § 1915. The claims in counts one and two are dismissed with prejudice because they fail to state a claim upon which relief may be granted. The claims in count three are dismissed without prejudice for lack of personal jurisdiction over the defendants. The frivolous claims in count four are dismissed with prejudice; the remaining claims in count four are dismissed without prejudice for lack of personal jurisdiction over the defendants. The claims in count five are dismissed without prejudice for lack of personal jurisdiction.

Dated this 15<sup>th</sup> day of April, 2015.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>The Report was mailed to the plaintiffs, but the copy of the Report that was mailed to Frederick Banks was returned to sender due to insufficient address. Doc. no. 9.