

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

JUSTIN YOST,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-15-0783-F
)	
SHIRLEY STOUFFER, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner who appears *pro se* and whose pleadings are liberally construed, initiated a complaint under 42 U.S.C. § 1983.

Magistrate Judge Charles B. Goodwin issued a Report and Recommendation on June 30, 2016. Doc. no. 48 (the Report). In the Report, Magistrate Judge Goodwin makes recommendations concerning the disposition of two motions to dismiss (doc. nos. 25, 34) as well as plaintiff's motion for a temporary restraining order or preliminary injunctive relief. Doc. no. 16.

The Report advised the parties of the right to file an objection to the Report with the clerk of this court by July 21, 2016. The Report further advised that failure to make timely objection to the Report waives the right to appellate review of the recommended ruling. No party has filed an objection or response to the Report, or sought an extension of time within which to object or respond.¹

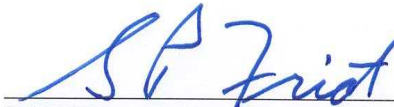
¹After the Report issued, plaintiff submitted a declaration regarding his failure to receive medication prescribed by the rheumatologist. The declaration has been filed of record. Doc. no. 49. It does not constitute an objection to the Report.

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 Report and Recommendation of Magistrate Judge Goodwin is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. In accordance with the recommendations, the Oklahoma Department of Corrections (ODOC) defendants' motion to dismiss (doc. no. 25), is **GRANTED** in its entirety; the Lawton Correctional Facility (LCF) defendants' motion to dismiss (doc. no. 34) is **GRANTED IN PART** and **DENIED IN PART**; and plaintiff's motion for preliminary injunctive relief is **DENIED**. More specifically:

- (i) Plaintiff's 42 U.S.C. § 1983 claims against ODOC and for money damages against Defendant McCoy in her official capacity are **DISMISSED** pursuant to the Eleventh Amendment;
- (ii) All claims against Defendant GEO and all remaining claims against Defendant McCoy are **DISMISSED** for failure to state a claim upon which relief can be granted;
- (iii) Plaintiff's Eighth Amendment Medical Treatment claim is **DISMISSED** as to Defendant Stouffer for failure to state a claim upon which relief can be granted;
- (iv) Plaintiff's Eighth Amendment Rheumatologist Claim is **NOT DISMISSED** as to Defendant Stouffer; and
- (v) Plaintiff's Motion for Preliminary Injunction (Doc. No. 16) is **DENIED**.

This order does not dispose of all issues referred to the magistrate judge. This action remains referred.

Dated this 4th day of August, 2016.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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