

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

SAMMY CARL BULLARD,)	
)	
Plaintiff,)	
vs.)	NO. CIV-15-798-HE
)	
GARFIELD COUNTY DETENTION)	
CENTER, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff Sammy Carl Bullard., appearing *pro se*, filed this action pursuant to 42 U.S.C. §1983. Consistent with 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to Magistrate Judge Bernard M. Jones, who has recommended that the action be dismissed without prejudice due to plaintiff's failure to pay the initial partial filing fee of \$1.00.

The magistrate judge had granted plaintiff's motion to proceed *in forma pauperis*, but advised plaintiff that he would be required to pay the \$350 filing fee, beginning with an initial partial payment of \$1.00 by August 22, 2015. Plaintiff was told that if he failed to pay the initial fee or show good cause in writing for not doing so, the action would be subject to dismissal without prejudice. By order dated August 28, 2015, the court *sua sponte* extended the deadline for payment of the initial partial filing fee to September 11, 2015, and again warned plaintiff that failure to comply with the order could result in dismissal of the action.


Instead of complying with the magistrate judge's prior orders by making the initial partial payment, requesting an extension of time within which to pay or demonstrating good cause for failure to pay, the plaintiff, on September 14, 2015, filed a motion stating that he

did not have or anticipate having “\$1.00 any time soon.” Doc. #13. Plaintiff asked the court to waive the filing fee. The magistrate judge concluded that plaintiff’s motion was insufficient to excuse the filing fee requirement as he offered no explanation why funds were no longer available to him or otherwise attempted to demonstrate good cause for not complying with the court’s prior orders.

The court agrees with the magistrate judge’s conclusion and further notes that plaintiff, by failing to object to the Report and Recommendation, waived his right to appellate review of the issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. §636(b)(1)(C). Accordingly, the court **ADOPTS** Magistrate Judge Jones’s Report and Recommendation, **DENIES** plaintiff’s motion [Doc. #13] and **DISMISSES** this action without prejudice to refiling.

IT IS SO ORDERED.

Dated this 19th day of October, 2015.



JOE HEATON
UNITED STATES DISTRICT JUDGE