

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

JOSHUA ALLEN SILVERMAN,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-15-1093-F
)	
PRISONER TRANSPORTATION)	
SERVICES OF AMERICA, LLC (PTS),)	
et al.,)	
)	
Defendants.)	

ORDER

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

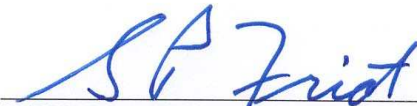
Magistrate Judge Suzanne Mitchell issued a Report and Recommendation on April 26, 2016. Doc. no. 40. In the Report, the Magistrate Judge recommends: that the court deny defendants' motion to dismiss to the extent it seeks dismissal of the entire complaint based on the statute of limitations and plaintiff's failure to allege more than a *de minimis* physical injury under the Prison Litigation Reform Act (PLRA); that the court dismiss without prejudice plaintiff's claim for compensatory damages; that the court quash service on defendants Blythe and Victory; and that the plaintiff be given an opportunity to re-attempt service on Blythe and Victory.

The Report advised the parties of the right to file an objection to the Report with the clerk of this court by May 16, 2016. The Report further advised that failure to make timely objection to the Report waives the right to appellate review of both factual and legal issues contained in the Report. No party has filed an objection or

response to the Report, nor has any party sought an extension of time within which to file an 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 Report and Recommendation of Magistrate Judge Mitchell is **ACCEPTED, ADOPTED** and **AFFIRMED**. As recommended, the motion to dismiss is **DENIED IN PART and GRANTED IN PART**, as follows. Defendants' motion to dismiss is **DENIED** to the extent that it seeks dismissal of the entire complaint based on the statute of limitations and plaintiff's failure to allege more than a *de minimis* physical injury under the PLRA. The motion is **GRANTED** to the extent that the court **DISMISSES**, without prejudice, plaintiff's claim for compensatory damages. Service on defendants Blythe and Victory is **QUASHED**, and plaintiff will be given an opportunity to re-attempt service on those parties.¹ This matter is **RE-REFERRED** to the Magistrate Judge for all proceedings consistent with the original referral.

DATED this 15th day of June, 2016.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

15-1093p006.wpd

¹The Report notes that if the court adopts the recommendation and re-refers the case, the Magistrate Judge anticipates ordering defense counsel to provide the court with home addresses for defendants Blythe and Victory, under seal, so that the U.S. Marshals Service can re-attempt service for the plaintiff.