

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

JOSE REFUSIO DAVALOS,

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Plaintiff,

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v.

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CIV-16-246-R

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JEFFREY TROUTT, M.D.,

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Defendant.

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ORDER

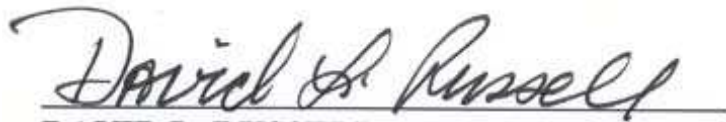
Plaintiff filed this action pursuant to 42 U.S.C. § 1983 alleging violation of his civil rights and also seeks relief pursuant to Oklahoma state law. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Gary M. Purcell for preliminary review. On July 12, 2016, Judge Purcell issued a Report and Recommendation wherein he recommended that Defendant’s Motion to Dismiss/Motion for Summary Judgment be granted in part and denied in part. Because Plaintiff clarified that his claims against Defendant Troutt are limited to individual capacity claims, Judge Purcell recommended denial of the motion as moot with regard to official capacity claims. Judge Purcell similarly concluded that the issue of exhaustion of administrative remedies was moot. Judge Purcell recommended that Defendant be granted summary judgment on the basis of qualified immunity, because Plaintiff failed to establish the violation of his constitutional rights with regard to the medical treatment he received. Finally, Judge Purcell recommended that the Court decline to exercise supplemental jurisdiction over Plaintiff’s state law claims. The matter is currently before the Court on Plaintiff’s timely objection to the Report and Recommendation, which gives rise to the Court’s obligation to undertake a *de novo* review of any portion of the Report and Recommendation to which Plaintiff makes specific objection. Having conducted this review, the

Court finds as follows.

Plaintiff's objection to the Report and Recommendation agrees with Judge Purcell's conclusions regarding the moot portions of the Defendant's motion. He contends, however, that the Court should exercise supplemental jurisdiction over both his state and federal claims and further, that Defendant presented an inaccurate *Martinez* report. He does not, however, elaborate on how the report was deficient.

Plaintiff's conclusory allegation that the *Martinez* report was inaccurate provides an insufficient basis for objecting to the Report and Recommendation. As such, the Report and Recommendation is hereby ADOPTED in its ENTIRETY. The Court hereby grants Defendant Troutt summary judgment with regard to Plaintiff's 42 U.S.C. § 1983 claim that the medical treatment he received was constitutionally insufficient. The Court declines to exercise jurisdiction over Plaintiff's claims arising under state law, and those claims are hereby remanded to the District Court of Oklahoma County.

IT IS SO ORDERED this 3rd day of August, 2016.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE