

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

JERRY FRANCIS GERKEN,)
)
 Plaintiff,)
)
vs.)
)
CADDO COUNTY JAIL,)
)
 Defendant.)

No. CIV-16-707-W

ORDER

On September 7, 2016, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this matter, and upon his review of the document filed by plaintiff Jerry Francis Gerken, that was construed as a "complaint," see Doc. 1, he recommended that this matter be dismissed without prejudice. Magistrate Judge Erwin further recommended that Gerken's requests for appointment of counsel be denied and that the dismissal of this matter count as a strike pursuant to title 28, section 1915(g) of the United States Code. Although Gerken was advised of his right to object, see Doc. 7 at 4, and of the consequences of his failure to do so, no objections have been filed within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Erwin's finding that Gerken has failed to state a claim for relief in the document file-stamped June 23, 2016, see Doc. 1, and with his suggested disposition of this matter. The Court finds, however, that the circumstances of this case do not warrant the imposition of a strike under section 1915(g).

Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 7] filed on September 7, 2016,
to the extent stated;

(2) DENIES Gerken's request for appointment of counsel [Doc. 1] file-stamped June
23, 2016, and his request for appointment of counsel [Doc. 6] file-stamped July 29, 2016;
and

(3) DISMISSES this matter without prejudice.

ENTERED this 11th day of October, 2016.


LEE R. WEST
UNITED STATES DISTRICT JUDGE