

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

JOE DON SHERROD,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-16-0780-F
)	
WARDEN BYRD, Cimarron)	
Correctional Facility, individually and)	
in his official capacity; et al.,)	
)	
Defendants.)	

ORDER

This action is brought by plaintiff, a prisoner who proceeds pro se under 42 U.S.C. § 1983. Plaintiff alleges eighth amendment and equal protection claims arising out of plaintiff’s medical treatment. Magistrate Judge Suzanne Mitchell filed a Report and Recommendation on August 9, 2017. Doc. no. 46 (the Report). The Report recommends granting defendants’ motion for summary judgment. Doc. no. 43.


Any objection to the Report was due by August 29, 2017. The Report advises that failure to make timely objection to the Report waives the right to appellate review of the factual and legal issues addressed in the Report. No objection was filed, nor has plaintiff sought an extension of time within which to object.

Having reviewed the Report and the record, the court concurs with the determinations stated in the Report. Given the detailed analysis presented in the Report, no additional analysis is necessary here except to say that although plaintiff’s diagnoses is undoubtedly dire and the pain caused by his cancer is surely severe, these circumstances, alone, do not amount to an actionable claim under § 1983. For

the reasons stated in the Report, defendants have shown that they are entitled to summary judgment on the claims alleged in this action.

Therefore, upon review, and with no objection having been made to the Report, the court **ACCEPTS, AFFIRMS** and **ADOPTS** the Report. Defendants' motion for summary judgment is **GRANTED**.

IT IS SO ORDERED this 14th day of September, 2017.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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