

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

MYRTLE SHOBE, the Legal Power of)	
Attorney, Guardian, and Next Friend of)	
Calvin Lee Shobe, with and for injured)	
person Calvin Lee Shobe,)	
)	
Petitioners,)	
)	
v.)	Case No. CIV-16-1214-D
)	
THOMAS SCARANTINO, Warden,)	
FCI El Reno; TULSA OKLAHOMA)	
FEDERAL DISTRICT COURT; and)	
UNITED STATES OF AMERICA,)	
)	
Respondents.)	

ORDER

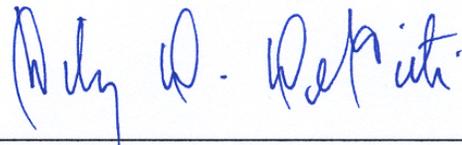
Calvin Lee Shobe (“Petitioner”), a federal inmate confined in this judicial district, and Mrytle Shobe, as Petitioner’s “Next Friend,” bring this action under 28 U.S.C. § 2241, challenging Petitioner’s conviction and sentence entered in the United States District Court for the Northern District of Oklahoma. *See* Pet. [Doc. No. 1] at 8. The matter was referred to Magistrate Judge Suzanne Mitchell for proceedings consistent with 28 U.S.C. § 636(b)(1)(B) and (C). On December 8, 2016, Judge Mitchell issued a Report and Recommendation [Doc. No. 9] wherein she recommended the Court dismiss without prejudice Petitioner’s action for lack of subject matter jurisdiction. *Id.* at 2.

In her Report and Recommendation, Judge Mitchell also advised Petitioner of his right to file an objection to the same and directed Petitioner to file his objection no later than December 28, 2016. Judge Mitchell further admonished Petitioner that failure to timely

object would constitute a waiver of his right to appellate review of the factual and legal issues addressed in the Report and Recommendation. The deadline for filing an objection has expired and, to date, Petitioner has not filed an objection or sought an extension of time in which to do so.

Therefore, the Court hereby ADOPTS the Report and Recommendation [Doc. No. 9] as though fully set forth herein. Accordingly, the Petition is dismissed without prejudice for lack of subject matter jurisdiction, and the Motion to Proceed as Next Friend of Injured Person Calvin Shobe [Doc. No. 5] is DENIED. Petitioner's remaining motions [Doc. Nos. 3, 4, and 6] are DENIED as moot.

IT IS SO ORDERED this 4th day of January, 2017.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE