

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

JOSE L. RENTERIA,)
)
Petitioner,)
)
v.)
)
JASON BRYANT, Warden,)
)
Respondent.)

Case No. CIV-16-1333-D

ORDER

Petitioner, a state prisoner appearing pro se, filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 alleging, among other things, ineffective assistance of counsel. Petitioner concurrently filed a Motion for Leave to Proceed In Forma Pauperis [Doc. No. 2]. The matter was referred to Magistrate Judge Shon Erwin for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

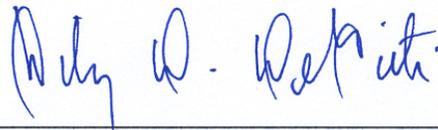
On November 21, 2016, Judge Erwin filed his Report and Recommendation (R&R) in which he recommended that Petitioner’s motion be denied as he had sufficient funds to pay the filing fee. R&R at 1. Judge Erwin also recommended that the action be dismissed without prejudice if Petitioner failed to pay the fee within twenty (20) days of any order adopting the R&R. *Id.* In his Report and Recommendation, Judge Erwin advised Petitioner of his right to file objections to the same and directed any objections to be filed no later than December 13, 2016. *Id.* at 2. Judge Erwin further admonished Petitioner that failure to timely object

would constitute a waiver of the right to appellate review of the factual and legal issues addressed in the Report and Recommendation. *Id.*

The deadline for filing objections has expired and to date, Petitioner has neither filed an objection nor sought an extension of time in which to do so. Accordingly, the Report and Recommendation [Doc. No. 5] is **ADOPTED** as though fully set forth herein.

IT IS THEREFORE ORDERED that Petitioner's Motion for Leave to Proceed In Forma Pauperis [Doc. No. 2] is **DENIED**. Petitioner is directed to pay the \$5.00 filing fee within **twenty (20) days** from the date of this Order. Petitioner is advised that if he fails to pay the requisite fee, his action will be dismissed without prejudice.

IT IS SO ORDERED this 28th day of December, 2016.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE