

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

TERRANCE TOLES,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-17-150-SLP
)	
OKLAHOMA DEPARTMENT OF)	
CORRECTONS, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, Terrance Toles, a state prisoner appearing pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his federal constitutional rights. In accordance with 28 U.S.C. § 636(b)(1)(B) the matter was referred to United States Magistrate Judge Shon T. Erwin for initial proceedings. In a Report and Recommendation [Doc. No. 49] entered on March 15, 2018, the Magistrate Judge recommended dismissing the action without prejudice due to Plaintiff’s failure to comply with the Court’s orders.

The Magistrate Judge specifically advised Plaintiff of his right to object to the findings and recommendations set forth in the Report and Recommendation. He further advised Plaintiff that failure to object would constitute a waiver of his right to appellate review of the factual and legal matters in the Report and Recommendation. Plaintiff’s deadline for filing objections was April 2, 2018. To date, Plaintiff has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so.¹

¹ It appears Plaintiff’s lack of objection may be due to a lack of notice. The record reflects a copy of the Report and Recommendation mailed to Plaintiff at his address of record was returned as undeliverable. Nonetheless, the Court finds that any failure to receive a copy of the Report does not provide a basis for an exception to the “firm waiver rule because Plaintiff was responsible for

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 49] is ADOPTED and Plaintiff's action is dismissed without prejudice to refiling. A separate judgment of dismissal will be entered herewith.

IT IS SO ORDERED this 16th day of April, 2018.



SCOTT L. PALK
UNITED STATES DISTRICT JUDGE

providing notice of any change of address. *See Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (pro se plaintiff who failed to provide any change of address or address correction waived right to review by failing to make a timely objection); *see also* LCvR 5.4(a) (requiring written notice of a change of address and further providing that papers sent by the Court are "deemed delivered if sent to the last known address given to the court.").