

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

DERRECK GRAY,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CIV-17-209-F
	)	
STATE OF OKLAHOMA, ex rel.	)	
Laura Austin Thomas, District Attorney,	)	
	)	
Defendant.	)	

**ORDER**

On May 17, 2017, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation, recommending that plaintiff’s 42 U.S.C. § 1983 action be dismissed without prejudice pursuant to Rule 41(b), Fed. R. Civ. P. Magistrate Judge Mitchell’s recommended ruling was based upon plaintiff’s failure to comply with court orders, together with a court’s right and responsibility to manage and control its caseload.

In the Report and Recommendation, Magistrate Judge Mitchell advised plaintiff of his right to file an objection by June 6, 2017 and that failure to make a timely objection waives the right to appellate review of both factual and legal issues therein contained. To date, plaintiff has not filed an objection. Instead, on June 12, 2017, plaintiff filed an application for leave to proceed in forma pauperis. *See*, doc. no. 10. Although a motion for leave to proceed in forma pauperis was a document plaintiff was ordered to file if he intended to proceed with his action and could not prepay the \$400 filing fee, plaintiff was also ordered to complete and file this court’s form Pro Se Prisoner Civil Rights Complaint. *See*, doc. no. 8. Plaintiff has not

submitted the form complaint. Because plaintiff has not filed an objection to the Report and Recommendation within the time prescribed and has not fully complied with Magistrate Judge Mitchell's order, the court accepts, adopts and affirms the Report and Recommendation.

Accordingly, the Report and Recommendation (doc. no. 9) issued by United States Magistrate Judge Suzanne Mitchell, filed May 17, 2017, is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Plaintiff's 42 U.S.C. §1983 action is **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 41(b), Fed. R. Civ. P. Judgment will issue forthwith.

IT IS SO ORDERED this 14<sup>th</sup> day of June, 2017.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE