

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

STEPHEN C. BURNETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-17-392-M
	)	
MARY FALLIN, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On May 4, 2017, United States Magistrate Judge Gary M. Purcell issued a report and recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff’s federal constitutional rights. The Magistrate Judge recommended this action be dismissed with prejudice, on the basis of defendants’ sovereign immunity and without prejudice for failure to state a claim upon which relief may be granted.<sup>1</sup> Plaintiff was advised of his right to file his objection to the Report and Recommendation on or before May 24, 2017. On May 22, 2017, plaintiff filed his objection.

Accordingly, upon de novo review, the Court:

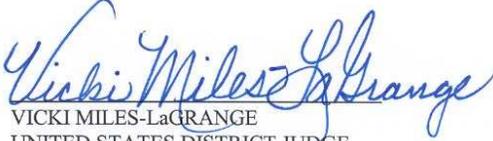
- (1) ADOPTS the Report and Recommendation [docket no. 9] issued by the Magistrate Judge on May 4, 2017;
- (2) DISMISSES plaintiff’s claims in this matter as follows: (1) plaintiff’s 42 U.S.C. § 1983 claims against defendants in their official capacities are dismissed with prejudice on the ground of sovereign immunity; and (2) plaintiff’s claims against defendants in their individual capacities, and plaintiff’s claim for prospective equitable relief in their official capacities are dismissed without prejudice for failure to state a claim upon which relief may be granted;

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<sup>1</sup> The Magistrate Judge further recommended that this dismissal count as a “prior occasion” or “strike” pursuant to 28 U.S.C. § 1915(g) and that the Court decline to exercise supplemental jurisdiction over plaintiff’s state tort claim.

- (3) COUNTS this dismissal as a “prior occasion” or “strike” pursuant to 28 U.S.C. § 1915(g); and
- (4) DECLINES to exercise supplemental jurisdiction over plaintiff’s state tort claim.

**IT IS SO ORDERED this 6th day of June, 2017.**

  
VICKI MILES-LaGRANGE  
UNITED STATES DISTRICT JUDGE