

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

ANTHONY B. WASHINGTON, JR.,)
)
 Plaintiff,)
)
vs.)
)
ALFALFA COUNTY BOARD OF)
COUNTY COMMISSIONERS et al.,)
)
 Defendants.)

No. CIV-17-401-W

ORDER

On June 1, 2017, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this matter and recommended that the Court deny the Motion for Summary Judgment filed by plaintiff Anthony B. Washington, Jr., a state prisoner proceeding pro se. Although Washington was advised of his right to object to the Report and Recommendation, see Doc. 18 at 2, and of the consequences of his failure to do so, see id. at 2-3, Washington filed no objections within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Purcell's suggested disposition of Washington's motion, which Magistrate Judge Purcell properly construed as a motion seeking judgment by default under Rule 55, F.R.Civ.P.¹

Accordingly, the Court

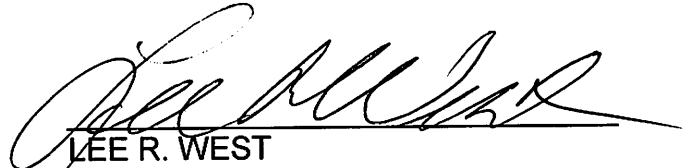
(1) ADOPTS the Report and Recommendation [Doc. 18] issued on June 1, 2017;

¹Although styled as a motion seeking summary judgment, Washington cited Rule 12, F.R.Civ.P., and argued that he was entitled to relief because the defendants had "20 days from the date [of] service[,]" Doc. 17 at 1, of process to answer, had "fail[ed] to respond to summons issued by this Court and the . . . Marshal's Office[,]" id., and "for that reason . . . [were] in default." Id. As Magistrate Judge Purcell found, Rule 12's time limits are not applicable in this instance since the defendants have been ordered to file a responsive pleading pursuant to 42 U.S.C. § 1997e(g)(2).

(2) DENIES Washington's Motion for Summary Judgment [Doc. 17] file-stamped
May 30, 2017; and

(3) RE-REFERS this matter to Magistrate Judge Purcell for further proceedings.

ENTERED this 28th day of June, 2017.



LEE R. WEST
UNITED STATES DISTRICT JUDGE