

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

LEONARD QUALLATE, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 OKLAHOMA DEPARTMENT OF )  
 CORRECTIONS, )  
 TRACY McCOLLUM, Warden NFCC, )  
 )  
 Defendants. )

Case No. CIV-17-844-D

**ORDER**

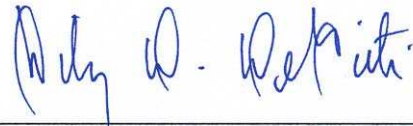
Plaintiff, a *pro se* litigant incarcerated at the North Fork Correctional Center in Sayre, Oklahoma, filed this action in Oklahoma County District Court on March 24, 2017, alleging he had suffered “a taking without just compensation.” [Doc. No. 1-1] at 2. He also alleged a due process violation under the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution. *Id.* at 1-4. Because Plaintiff invoked the federal Constitution, Defendant filed a Notice of Removal [Doc. No. 1]. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Suzanne Mitchell for initial proceedings.

On September 26, 2017, Judge Mitchell filed a Report and Recommendation (“Report”) [Doc. No. 6], in which she recommended that the Court dismiss Plaintiff’s Fourth, Fifth and Fourteenth Amendment due process claims without prejudice because they fail to state a claim upon which relief can be granted. Judge Mitchell also recommended that Plaintiff’s state law claims be remanded to state court.

Judge Mitchell advised Plaintiff of his right to object and directed that any objection be filed on or before October 16, 2017. Judge Mitchell further advised Plaintiff that any failure to object would result in a waiver of the right to appellate review. The deadline for filing objections has passed. To date, Plaintiff has not filed objections and has not sought an extension of time in which to do so.

Accordingly, Judge Mitchell's Report and Recommendation [Doc. No. 6] is ADOPTED as though fully set forth herein. Plaintiff's Fourth, Fifth and Fourteenth Amendment due process claims are dismissed without prejudice to refiling. Plaintiff's state law claims are remanded to the District Court of Oklahoma County, Oklahoma. This Order moots Plaintiff's Application to Stay Proceedings and Request for Order Requiring Special Report and Brief in Support [Doc. No. 5]; therefore, that motion is DENIED.

IT IS SO ORDERED this 9<sup>th</sup> day of November 2017.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE