

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

|                       |   |                        |
|-----------------------|---|------------------------|
| BENJAMIN LUKE BOARTS, | ) |                        |
|                       | ) |                        |
| Petitioner,           | ) |                        |
| v.                    | ) | Case No. CIV-17-1039-M |
|                       | ) |                        |
| STATE OF OKLAHOMA,    | ) |                        |
|                       | ) |                        |
| Respondent.           | ) |                        |

**ORDER**

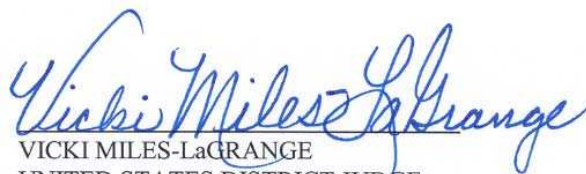
On November 28, 2017, United Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this action in which Petitioner filed a Petition for Writ of Habeas Corpus. After Petitioner failed to pay the \$5.00 filing fee or be granted leave to proceed without prepayment of fees or cure the deficiency, the Magistrate Judge recommended this action be dismissed without prejudice for failure to comply with the Court's orders. Plaintiff was advised of his right to object to the Report and Recommendation. On December 7, 2017, Plaintiff submitted a Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (Prisoner Form) [Docket 11]. The Court finds this is not considered a timely objection to the Report and Recommendation.

Accordingly, upon *de novo* review, the Court:

- (1) ADOPTS the Report and Recommendation [Docket no. 9] issued by the Magistrate Judge on November 28, 2017; and

(2) DISMISSES this action without prejudice to refileing.

**IT IS SO ORDERED this 7th day of February, 2018.**

  
VICKI MILES-LaGRANGE  
UNITED STATES DISTRICT JUDGE