

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

GENE TUGGLE,)
)
 Plaintiff,)
)
 v.)
)
 OKLAHOMA DEPARTMENT OF)
 CORRECTIONS, *et al.*,)
)
 Defendants.)

Case No. CIV-18-406-D

ORDER

Plaintiff, a state prisoner appearing *pro se*, initiated this civil rights action under 42 U.S.C. § 1983 in state court. Defendants removed the matter to this Court on April 26, 2018. [Doc. No. 1]. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Gary M. Purcell for initial proceedings.

On July 17, 2018, Judge Purcell filed a Report and Recommendation (“Report”) [Doc. No. 11], in which he recommended that the Court grant in part and deny in part Plaintiff’s Motion to Dismiss.

Judge Purcell advised Plaintiff of his right to object and directed that any objection be filed on or before August 6, 2018. Judge Purcell 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 Purcell’s Report and Recommendation [Doc. No. 11] is ADOPTED as though fully set forth herein. Plaintiff’s Motion to Dismiss [Doc. No. 10]

is GRANTED in part and DENIED in part. Specifically, Plaintiff's motion is granted to the extent he requests dismissal of this action, but his request for the return of fees and costs is denied. Defendants Andrew Ormand and Tracy Ellis' Motion to Dismiss [Doc. No. 7] is rendered MOOT.

IT IS SO ORDERED this 13th day of August 2018.

Handwritten signature of Timothy D. DeGiusti in blue ink.

TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE