

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

JAMIE GLENN FARLEY,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-19-00370-PRW
)	
JOE M. ALLBAUGH,)	
)	
Respondent.)	

ORDER

On April 29, 2019, United States Magistrate Judge Bernard M. Jones issued a Report and Recommendation (Dkt. 5) in this action. The Magistrate Judge recommends that Petitioner’s motion for leave to proceed *in forma pauperis* (Dkt. 2) be denied and the action be dismissed without prejudice unless Petitioner pays the full filing fee within 21 days of any order adopting his Report and Recommendation. Petitioner was advised that he has a right to object to the Report and Recommendation by May 20, 2019, and that failure to make a timely objection would waive any right to appellate review of the *in forma pauperis* issue.

A review of the file reveals that Petitioner paid the filing fee on May 10, 2019. Accordingly, it is clear that Petitioner does not object to the Magistrate Judge’s Report and Recommendation (Dkt. 5).¹ Therefore, Petitioner has waived further review of the issues


¹ See *Duvall v. Okla. State Bd. of Osteopathic Examiners*, No. 5:17-cv-00247-F, 2017 WL 1379393, at *1 (W.D. Okla. Apr. 14, 2017).

addressed in the Report and Recommendation.² Moreover, his motion for leave to proceed *in forma pauperis* (Dkt. 2)—at least insofar as it concerns payment of the initial filing fee—is now moot.³

Upon *de novo* review, the Court:

- (1) **ADOPTS IN PART** the Report and Recommendation (Dkt. 5) issued by the Magistrate Judge on April 29, 2019. The recommendation to deny the motion for leave to proceed *in forma pauperis* is **ADOPTED**. However, the recommendation to dismiss the action without prejudice to refiling in the event Petitioner fails to pay the filing fee within 21 days is rendered **MOOT** because the Petitioner has already paid the \$5.00 filing fee.
- (2) **DENIES** Petitioner's motion to proceed *in forma pauperis* (Dkt. 2) as moot; and
- (3) **RECOMMITS** this action to the Magistrate Judge for further proceedings.

IT IS SO ORDERED this 11th day of June, 2019.



PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

² *Olivera v. Cate*, No. 5:14-cv-00162-D, 2016 WL 1436694, at *1 (W.D. Okla. Apr. 11, 2016) (citing *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *United States v. 2121 E. 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996)).

³ *See Hymel v. Harvenek*, No. 5:14-cv-00273-F, 2014 WL 2117866, at *1 (W.D. Okla. May 21, 2014); *accord Lipscomb v. Madigan*, 221 F.2d 798 (9th Cir. 1955).