

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

PEDRO GUTIERREZ,

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Plaintiff,

v.

Case No. CIV-20-525-R

JOHN B. FOX, Warden, et al.,

Defendants.

ORDER

Plaintiff Pedro Gutierrez, a prisoner appearing *pro se*, filed this action seeking relief pursuant to 42 U.S.C. § 1983. Doc. No. 1. Mr. Gutierrez also filed a Motion for Leave to Proceed In Forma Paupers. Doc. No. 10. In accordance with 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to United States Magistrate Judge Gary M. Purcell for preliminary review. On August 13, 2020, Judge Purcell issued his Report and Recommendation. Doc. No. 12. Plaintiff filed a letter on July 30, 2020 to the Clerk of Court, Doc. No. 13, which the Court construes as a timely objection to Judge Purcell’s Report and Recommendation. Plaintiff’s timely objection gives rise to the Court’s obligation to undertake a *de novo* review of those portions of the Report and Recommendation to which Plaintiff makes specific objection. Cognizant of its obligation and granting Plaintiff’s filing the liberal construction mandated by *Haines v. Kerner*, 404 U.S. 519 (1972), the Court adopts the Report and Recommendation in part.

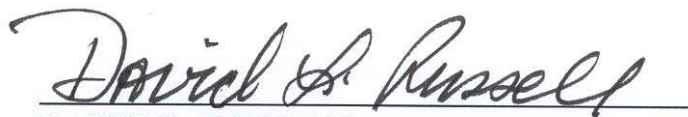
On June 5, 2020, Mr. Gutierrez filed this action alleging that Defendants Warden John Fox, Warden Scott Young, Assistant Warden T. Carter, Lieutenant D. Cogburn,

Officer T. Kirby, and Chaplain D. Holston violated the U.S. Constitution by preventing Mr. Gutierrez from practicing his religion. Doc. No. 1. In his Report and Recommendation, Judge Purcell recommends the Court deny Mr. Gutierrez's Application for Leave to Proceed In Forma Pauperis, Doc. No. 10. *See* Doc. No. 12. Judge Purcell further recommends that the action be dismissed unless Mr. Gutierrez pays the filing fee by September 2, 2020. *Id.*

Mr. Gutierrez does not object to the recommendation that his application be denied. Instead, he alleges that he intends to pay the filing fee but currently does not know how much to pay. Doc. No. 13. He requests the Court notify him of the exact amount he needs to pay to satisfy his filing fee and grant him an extension of time to pay the fee. *Id.* The filing fee is \$400.00. Mr. Gutierrez is granted an extension until October 1, 2020 to pay the fee.

The Court hereby adopts the Report and Recommendation, Doc. No. 12, to the extent it is consistent with the Court's order. Accordingly, the Court hereby denies Mr. Gutierrez's Application for Leave to Proceed in Forma Paupers, Doc. No. 10. The matter is re-referred to Judge Purcell for further proceedings.

IT IS SO ORDERED this 4th day of September 2, 2020.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE