

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

RODOLFO AVELAR, as Personal)
Representative of the Estate of)
Andrew Avelar, Deceased,)
)
Plaintiff,)
)
v.) Case No. CIV-24-909-D
)
OKLAHOMA COUNTY CRIMINAL)
JUSTICE AUTHORITY, et al.,)
)
Defendants.)

ORDER

Plaintiff Rodolfo Avelar, as Personal Representative of the Estate of Andrew Avelar, brought this civil rights action under 42 U.S.C. § 1983 and Oklahoma state law. Defendant Oklahoma County Criminal Justice Authority (OCCJA) moved to dismiss Plaintiff's Second Amended Complaint [Doc. No. 15], to which Plaintiff filed a response [Doc. No. 20]. The matter was referred to United States Magistrate Judge Shon T. Erwin for initial proceedings in accordance with 28 U.S.C. § 636(b)(1)(B) and (C).

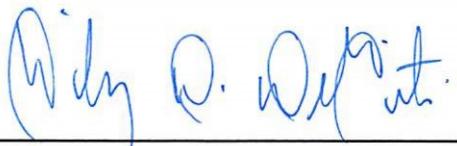
On February 14, 2025, the magistrate judge issued a Report and Recommendation [Doc. No. 22], in which he recommended denying OCCJA's Motion to Dismiss [Doc. No. 15]. The magistrate judge notified OCCJA that it could file an objection to the R&R on or before March 3, 2025, and that failure to timely object to the R&R waives the right to appellate review of both factual and legal issues contained therein. *See Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

Upon review of the file and noting no timely objection to the findings and recommendations of the magistrate judge, the Court **ADOPTS** the Report and Recommendation [Doc. No. 22] in its entirety.

IT IS THEREFORE ORDERED that, for the reasons stated in the Report and Recommendation, Defendant OCCJA's Motion to Dismiss [Doc. No. 15] is **DENIED**.

IT IS FURTHER ORDERED that OCCJA's previous Motion to Dismiss [Doc. No. 6], which addressed Plaintiff's First Amended Complaint [Doc. No. 1-2], is therefore **DENIED as MOOT**.

IT IS SO ORDERED this 5th day of March, 2025.



TIMOTHY D. DeGIUSTI
Chief United States District Judge