

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
OKLAHOMA

Ladell Phillips, as Executor of the Estate of Damon Henderson v.
Officer Tharp, et al.

No. CIV-24-053-RAW-JAR, United States District Court for the Eastern District of Oklahoma (February 12, 2026)

SUMMARY

The United States District Court for the Eastern District of Oklahoma adopted the magistrate judge’s Report and Recommendation without objection. The court granted the Town of Spiro’s motion to dismiss the second amended complaint and dismissed the Town without prejudice, deeming several other docket entries moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of Oklahoma
WRITING FOR THE COURT	Ronald A. White
JURISDICTION	United States District Court for the Eastern District of Oklahoma
DECIDED	February 12, 2026
DOCKET	CIV-24-053-RAW-JAR
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed and adopted a magistrate judge's Report and Recommendation recommending dismissal of the plaintiff's second amended complaint against the Town of Spiro. No party filed a timely objection.
STANDARD OF REVIEW	In the absence of a timely objection to a magistrate judge's report and recommendation, the district court may review the report under any standard it deems appropriate; the court found no clear error on the face of the record.
PRECEDENTIAL VALUE	unpublished
PARTIES	Ladell Phillips, as Executor of the Estate of Damon Henderson v. Officer Tharp, et al., Town of Spiro

TOPICS

motions to dismiss

civil procedure

section 1983

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Report and Recommendation when no timely objection was filed.
2. Whether the Town of Spiro's motion to dismiss the plaintiff's second amended complaint should be granted.

HOLDINGS

1. When no timely objection is filed, the district court may review the magistrate judge's Report and Recommendation under any standard it deems appropriate; here, the court found no clear error on the face of the record and adopted the recommendation.
2. The Town of Spiro's motion to dismiss the plaintiff's second amended complaint was granted, and the Town of Spiro was dismissed from the action without prejudice.

KEY QUOTATIONS

"In the absence of a timely objection, the district court may review a magistrate's report under any standard it deems appropriate." (2)

"there is no clear error on the face of the record." (2)

FACTUAL BACKGROUND

The plaintiff, acting as executor of the Estate of Damon Henderson, filed a second amended complaint naming Officer Tharp and other defendants, including the Town of Spiro. The Town of Spiro moved to dismiss that complaint. The order does not recount the underlying factual allegations because it adopts the magistrate judge's recommendation without further analysis.

PROCEDURAL HISTORY

The Town of Spiro moved to dismiss the plaintiff's second amended complaint. The assigned magistrate judge recommended granting the motion, and no objection was filed within the allotted time. The district court adopted and affirmed the Report and Recommendation, granted the motion, and dismissed the Town of Spiro without prejudice; several other docket entries were deemed moot.

DISPOSITION

dismissed

CASES CITED

- Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991)

OPINION

Ladell Phillips, as Executor of the Estate of Damon Henderson v. Officer Tharp, et al.

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

LADELL PHILLIPS, as Executor of the) Estate of DAMON HENDERSON,)))) Plaintiff,))
v.) Case No. CIV-24-053-RAW-JAR) OFFICER THARP, et al.,))) Defendants.)

ORDER

Before the court is the Report and Recommendation of the United States Magistrate Judge, in which he recommended that defendant Town of Spiro's motion to dismiss plaintiff's second amended complaint be granted. No objection has been filed and the time allotted for doing so has expired. "In the absence of a timely objection, the district court may review a magistrate's report under any standard it deems appropriate." Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir.1991). The court agrees with the reasoning of the Magistrate Judge's analysis and recommendation and finds that "there is no clear error on the face of the record." See Rule 72(b) F.R.Cv.P., advisory committee note. It is the order of the court that the Report and Recommendation (#50) is affirmed and adopted as the order of the court. The motion of Town of Spiro (#45) to dismiss plaintiff's second amended complaint is granted. Defendant Town of Spiro is dismissed from this action without prejudice. In view of the second amended complaint, docket nos. 33, 36, and 40 are deemed moot. IT IS SO ORDERED this 12th day of FEBRUARY, 2026.

RONALD A. WHITE

UNITED STATES DISTRICT JUDGE

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