

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

**Cody Case v. Director of ODOC, et al.**

Case · No. CIV-25-721-D · Decided January 14, 2026

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**SUMMARY**

The United States District Court for the Western District of Oklahoma adopts a magistrate judge's Report and Recommendation and dismisses without prejudice a pro se prisoner's amended 42 U.S.C. § 1983 complaint for failure to state a claim. The dismissal follows the plaintiff's failure to file timely objections despite receiving extensions of time.

**OPINION**

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CODY CASE, ) ) Plaintiff, ) ) v. ) Case No. CIV-25-721-D ) DIRECTOR OF ODOC, et al., ) ) Defendants. ) ORDER Plaintiff, appearing pro se, brought this civil rights action under 42 U.S.C. § 1983, alleging violations of Plaintiff's constitutional rights [Doc. No. 1].

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)-(C) [Doc. No. 4]. Plaintiff filed an Application for Leave to Proceed in Forma Pauperis and supporting affidavit [Doc. No. 2], which the Court granted [Doc. No. 5].

On August 22, 2025, Judge Erwin issued a Report and Recommendation recommending the Court dismiss the case for failure to state a claim upon which relief may be granted [Doc. No. 9]. Plaintiff filed objections to the Report and Recommendation, acknowledging that his initial complaint failed to state a claim upon which relief may be granted and attaching an amended complaint [Doc.

No. 12]. The Court declined to adopt Judge Erwin's Report and Recommendation and granted Plaintiff leave to file his amended complaint [Doc. No. 13]. The case was re-referred to Judge Erwin for further proceedings consistent with the initial case referral. Id. Plaintiff filed his Pro Se Prisoner Proposed Amended Civil Rights Complaint on October 8, 2025 [Doc.

No. 16]. On October 24, 2025, Judge Erwin issued the present Report and Recommendation [Doc. No. 17], in which he recommends the Court dismiss Plaintiff's amended complaint for failure to state a claim upon which relief may be granted.

In his report, Judge Erwin notified Plaintiff of his right to file objections to the Report and Recommendation on or before November 10, 2025, and that failure to object waives Plaintiff's

right to appellate review of both factual and legal issues contained in the report. See *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

On November 7, 2025, Plaintiff filed Petitioners Motion for Extension of Time to File Objection to Report and Recommendation [Doc. No. 18], which the Court granted [Doc. No. 19]. On December 1, 2025, Plaintiff filed his second Petitioners Motion for Extension of Time to File Objection to Report and Recommendation [Doc. No. 20], which the Court granted [Doc.

No. 21]. Plaintiff failed to file any objections to the Report and Recommendation. 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. 17] in its entirety. IT IS THEREFORE ORDERED that Plaintiff's Pro Se Prisoner Proposed Amended Civil Rights Complaint [Doc.

No. 16] is DISMISSED without prejudice. IT IS SO ORDERED this 14<sup>th</sup> day of January, 2026. \ms - Wy QO: uP: TIMOTHY D. DeGIUSTI 2 Chief United States District Judge