

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Wallace McQuire v. Oklahoma Public Defenders Office, et al.

McQuire · No. CIV-25-347-PRW · Decided December 9, 2025

SUMMARY

The United States District Court for the Western District of Oklahoma adopted a magistrate judge’s Report and Recommendation after the plaintiff failed to file timely objections. The court found no plain error and dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b).

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Patrick R. Wyrick
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	December 9, 2025
DOCKET	CIV-25-347-PRW
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal under Federal Rule of Civil Procedure 41(b). The plaintiff filed no objections, and the district court adopted the recommendation and dismissed the action without prejudice.
STANDARD OF REVIEW	In the absence of timely objections, the court reviewed the Report and Recommendation for plain error on the face of the record.
PRECEDENTIAL VALUE	Unknown

TOPICS

- appellate procedure
- waiver
- standard of review
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. What standard should the district court apply when reviewing a magistrate judge's Report and Recommendation to which no timely objection was filed?
2. Whether the Report and Recommendation should be adopted and the action dismissed without prejudice under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. A party who fails to file a timely objection waives appellate review of the factual and legal issues addressed in the Report and Recommendation.
2. When no timely objection is filed, the district court reviews the Report and Recommendation to determine whether there is plain error on the face of the record.
3. The court adopted the Report and Recommendation in full and dismissed the action without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

KEY QUOTATIONS

“He has therefore waived his right to appellate review of the factual and legal issues addressed in the Report and Recommendation.” (Order)

“Finding none, the Court agrees with Judge Mitchell’s analysis and conclusions.” (Order)

“Upon review, the Court ADOPTS the Report and Recommendation (Dkt. 9) in full and DISMISSES the case WITHOUT PREJUDICE.” (Order)

FACTUAL BACKGROUND

The action was brought by Wallace McQuire against the Oklahoma Public Defenders Office and other defendants. The magistrate judge recommended dismissal under Federal Rule of Civil Procedure 41(b). Plaintiff did not object to the recommendation by the prescribed deadline.

PROCEDURAL HISTORY

On May 5, 2025, Magistrate Judge Suzanne Mitchell issued a Report and Recommendation recommending dismissal under Rule 41(b) and advised Plaintiff that objections were due by May 26, 2025. Plaintiff filed no objections. The district court concluded that Plaintiff waived appellate review of the factual and legal issues addressed in the recommendation, reviewed the recommendation for plain error, found none, adopted it in full, and dismissed the case without prejudice.

DISPOSITION

dismissed

CASES CITED

- United States v. One Parcel of Real Prop., 73 F.3d 1057, 1059-60 (10th Cir. 1996)
- Summers v. State of Utah, 927 F.2d 1165, 1167-68 (10th Cir. 1991)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA WALLACE McQUIRE,)) Plaintiff,)) v.) Case No. CIV-25-347-PRW) OKLAHOMA PUBLIC DEFENDERS) OFFICE, et al.,)) Defendants.) ORDER On May 5, 2025, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation (Dkt. 9) in this action, in which she recommends that the Court dismiss Plaintiff's case pursuant to Federal Rule of Civil Procedure 41(b).

Judge Mitchell advised Plaintiff of his right to object to the Report and Recommendation by May 26, 2025, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72, and that failure to make a timely objection would waive any right to appellate review of the factual and legal issues addressed in the Report and Recommendation.

To date, Plaintiff has filed no objections. He has therefore waived his right to appellate review of the factual and legal issues addressed in the Report and Recommendation.¹ In the absence of a timely objection, the Court reviews the Report and 1 *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059–60 (10th Cir. 1996). Recommendation to confirm that there is no plain error on the face of the record.” Finding none, the Court agrees with Judge Mitchell’s analysis and conclusions.

Upon review, the Court ADOPTS the Report and Recommendation (Dkt. 9) in full and DISMISSES the case WITHOUT PREJUDICE. IT IS SO ORDERED this 9th day of December 2025. PATRICK R. WYRICK UNITED STATES DISTRICT JUDGE 2 *Summers v. State of Utah*, 927 F.2d 1165, 1167-68 (10th Cir. 1991) (“In the absence of timely objection, the district court may review a magistrate’s report under any standard it deems appropriate.””).