

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LEEANDREW LASHA CUMMINGS,

Plaintiff,

v.

CASE NO. 14-3072-SAC-DJW

B. JOHNSON, et al.,

Defendants.

O R D E R

Plaintiff Leeandrew Cummings, a prisoner in state custody, filed this action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. §636(b)(1)(B), (C), the matter was referred to Magistrate Judge Waxse, who recommends granting the motion to proceed in forma pauperis, dismissing the Larned Correctional Mental Health Facility from this action, and dismissing all claims against defendant B. Johnson for failure to state a claim for relief. Plaintiff was granted to and including May 30, 2014, to file written objections to the report.

Plaintiff did not file a response to the Report and Recommendation, and thus he has waived appellate review of the factual and legal issues discussed. *See United States v. One Parcel of Real Property*, 73 F.3d 1057, 1059-60 (10th Cir. 1996) (noting the Tenth Circuit's adoption of firm waiver rule that failure to make timely objection waives appellate review of factual and legal questions).

Accordingly, the court adopts Magistrate Judge Waxse's Report and Recommendation in its entirety.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff's motion to proceed in forma pauperis (Doc. 2) is granted. Collection action shall proceed pursuant to 28 U.S.C. § 1915(b) (2) until plaintiff satisfies the \$350.00 filing fee.

IT IS FURTHER ORDERED defendant Larned Correctional Mental Health Facility is dismissed from this action.

IT IS FURTHER ORDERED plaintiff's claims against defendant B. Johnson are dismissed for failure to state a claim for relief.

Copies of this order shall be transmitted to the plaintiff and to the finance office of the facility where he is incarcerated.

IT IS SO ORDERED.

DATED: This 3d day of June, 2014, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge