

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GUY MADISON NEIGHBORS,

Plaintiff,

v.

**LAWRENCE POLICE
DEPARTMENT, et al.,**

Defendants.

Case No. 16-CV-4065-DDC-KGS

ORDER

On June 23, 2016, Magistrate Judge K. Gary Sebelius issued a Report and Recommendation (Doc. 9), recommending that the district judge deny plaintiff Guy Madison Neighbors' Motion for Leave to Proceed *in forma pauperis* (Doc. 3) because plaintiff had failed to disclose the required financial information necessary for the court to consider his motion properly. Judge Sebelius further recommended that the district court order plaintiff to pay the \$400 filing fee within 14 days from the date of this Order. Judge Sebelius also recommended that the district court dismiss this lawsuit without prejudice to refiling if plaintiff fails to pay the filing fee in a timely fashion.

Judge Sebelius noted in his Report and Recommendation that plaintiff may serve and file objections to the Report and Recommendation under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72, within 14 days after service. Doc. 9 at 1. He also advised plaintiff that failing to make a timely objection to the Report and Recommendation would waive any right to appellate review. *See id.* (explaining that "[i]f no objections are timely filed, no appellate review will be allowed by any court."). The Clerk sent a copy of the Report and Recommendation to plaintiff by

certified mail. *See* Docket Entry for Doc. 9 (stating “[a] copy of this order was sent to plaintiff by certified mail (tracking no. . . .)”).

Service of the Report and Recommendation was accomplished by “mailing it to [plaintiff’s] last known address—in which event service [was] complete upon mailing.” Fed. R. Civ. P. 5(b)(2)(C); *see also ReVoal v. Brownback*, No. 14-4076, 2014 WL 5321093, at *1 (D. Kan. Oct. 16, 2014). This mailing occurred on June 23, 2016, when the Clerk mailed the Report and Recommendation to plaintiff. *See* Doc. 9. The time for plaintiff to file any objections to the Report and Recommendation thus has expired.¹

To date, plaintiff has filed no objections to the Report and Recommendation, nor has he sought any extension of time to file an objection. Because plaintiff has filed no objection to the Report and Recommendation within the time prescribed, and he has sought no extension of time to file an objection, the Court accepts, adopts, and affirms the Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED that, after reviewing the file *de novo*, the Report and Recommendation issued by United States Magistrate Judge K. Gary Sebelius on June 23, 2016 (Doc. 9) is **ACCEPTED, ADOPTED, and AFFIRMED**.

IT IS FURTHER ORDERED that plaintiff’s Motion for Leave to Proceed *in forma pauperis* (Doc. 3) is denied.

IT IS FURTHER ORDERED that plaintiff **must pay the \$400 filing fee within 14 days from the date of this Order**. The court further cautions plaintiff that, if he fails to pay the filing fee within the 14-day deadline, the court may dismiss this action without prejudice.

¹ Plaintiff’s deadline for responding is extended by three days under Fed. R. Civ. P. 6(d) because service was made by mail. Even adding these three additional days to the 14-day response time, the deadline for responding to Judge Sebelius’ Report and Recommendation has expired.

IT IS SO ORDERED.

Dated this 13th day of July, 2016, at Topeka, Kansas

s/ Daniel D. Crabtree

Daniel D. Crabtree

United States District Judge