

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

KEVIN W. ROSS,

Plaintiff,

v.

KRISTI WOLF, et al.,

Defendants.

Case No. 17-CV-04027-DDC-GEB

ORDER

On July 12, 2017, Magistrate Judge Gwynne E. Birzer issued a Report and Recommendation (Doc. 6), recommending dismissal of this case for several reasons:

(1) plaintiff's claims against Judge Elizabeth Henry are subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(iii) because plaintiff seeks relief from a defendant who is immune from suit; (2) plaintiff's claims against Kristi Wolf and Christopher L. Wolf are subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(iii) for failing to state a claim upon which relief may be granted, and under Fed. R. Civ. P. 12(h)(3) for lack of subject matter jurisdiction; and (3) plaintiff's claims against the Sedgwick County District Court are subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii) for failing to state a claim upon which relief may be granted. Doc. 6 at 9–10.

Judge Birzer's Report and Recommendation noted that plaintiff may serve and file objections to the Report and Recommendation under 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), within 14 days after service. Doc. 6 at 10. She also advised plaintiff that failing to make a timely objection to the Report and Recommendation waives any right to appellate review of the proposed findings of fact, conclusions of law, or recommended disposition. *See id.*

On July 28, 2017, plaintiff filed a Motion for Extension of Time to File Response to Report and Recommendations (Doc. 8). Plaintiff's motion sought an extension of time, but failed to specify the length of time he was requesting. That same day, the court gave plaintiff the benefit of this ambiguity and granted him a 30-day extension of time to file a response to the Report and Recommendations. *See* Doc. 9. With this extension, plaintiff was required to file a written objection to the Report and Recommendation on or before August 28, 2017. *See id.* 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 another extension of time to file an objection. Because plaintiff has filed no objection to the Report and Recommendation within the time granted by the initial extension, and he has sought no additional 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 record *de novo*, the Report and Recommendation issued by United States Magistrate Judge Gwynne E. Birzer on July 12, 2017 (Doc. 6) is **ACCEPTED, ADOPTED and AFFIRMED**. The court dismisses this action under 28 U.S.C. § 1915(e)(2)(B)(ii), 28 U.S.C. § 1915(e)(2)(B)(iii), and Fed. R. Civ. P. 12(b)(1).

IT IS SO ORDERED.

Dated this 12th day of September, 2017, at Topeka, Kansas

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge

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 30-day extension, the deadline for responding to Judge Birzer's Report and Recommendation has expired.