

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DONALD ALVIN WOMACK, JR.,

Plaintiff,

vs.

Case No. 18-4045-SAC-KGS

SHAWNEE COUNTY DISTRICT
ATTORNEY'S OFFICE and UNITED STATES
ATTORNEY JARED MAAG,

Defendants.

O R D E R

On June 19, 2018, United States Magistrate Judge Sebelius filed a report and recommendation (Doc. No. 5) which advised the court to dismiss plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2). Plaintiff's complaint claims he was illegally detained for a period of time after defendant Maag, a federal prosecutor, allegedly decided to dismiss plaintiff's federal charges but waited approximately one month to do so until the Shawnee County District Attorney's Office brought charges against plaintiff for a second time. The Shawnee County District Attorney had previously brought charges which were dismissed when the federal charges were filed.

The Magistrate Judge's report recommends that the claims against the Shawnee County District Attorney's Office be dismissed because plaintiff was in federal custody upon federal charges -

not state or county custody - during the alleged period of illegal detention. The report further recommends that the claims against defendant Maag be dismissed under the doctrine of prosecutorial immunity and because a grand jury found probable cause to support the federal charges against plaintiff.

As explained in the report and recommendation, plaintiff has 14 days after service of the report and recommendation to file any objection. The record reflects that the report and recommendation was sent to plaintiff by regular mail and certified mail on June 19, 2018. This mailing to plaintiff's last-known address constitutes service. Fed. R. Civ. P. 5(b)(2)(C); see also Koslover v. Prairie Bank Tribal Court, 2016 WL 3405172 *1 (D.Kan. 6/21/2016); ReVoal v. Brownback, 2014 WL 5321093 at *1 (D.Kan. 10/16/2014). Thus, the time has expired for plaintiff to file any objections to the report and recommendation.

The court accepts the reasons for dismissing this case as explained in the report and recommendation. The court notes too that 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. For these reasons, the court accepts the report and recommendation in its entirety and this case is dismissed pursuant to 28 U.S.C. § 1915(e)(2).

IT IS SO ORDERED.

Dated this 11th day of July, 2018, at Topeka, Kansas.

s/Sam A. Crow

Sam A. Crow, U.S. District Senior Judge