

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 6, 2014

Elisabeth A. Shumaker
Clerk of Court

OCTAVIOUS HODGES,

Petitioner - Appellant,

v.

JUSTIN JONES, Director of Oklahoma
Department of Corrections,

Respondent - Appellee.

No. 13-6261
(D.C. No. 5:13-CV-00249-M)

ORDER

Before **TYMKOVICH**, **HOLMES**, and **MATHESON**, Circuit Judges.

The petitioner has waived the right to appellate review of the district court dismissal because he failed to file objections to the magistrate's report and recommendation. Accordingly, we dismiss this appeal.

Failure to properly object to a magistrate judge's recommendation results in waiver of appellate review of both factual and legal issues. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *Niehaus v. Kansas Bar Ass'n*, 793 F.2d 1159, 1164-65 (10th Cir. 1986). This rule applies to pro se parties where, as here, they were "properly informed of the consequences of [their] failure to object." *Fottler v. United States*, 73 F.3d 1064, 1065 (10th Cir. 1996).

APPEAL DISMISSED. The mandate shall issue forthwith.

Entered for the Court

ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

by: Ellen Rich Reiter

Jurisdictional Attorney