

FILED

APR 03 2015

Clerk, U.S. District Court
District Of Montana
MissoulaIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

DAVID STEVEN BRAUN,

Plaintiff,

vs.

DEPARTMENT OF JUSTICE,

Defendant.

CV 14-70-BU-DWM-JCL

ORDER

This matter comes before the Court on Defendant Department of Justice's ("the Department") motion to dismiss this action for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted. (Doc. 8.) Magistrate Judge Jeremiah Lynch entered Findings and Recommendations on February 23, 2015, recommending the Court grant the Department's motion. (Doc. 19.) Plaintiff David Steven Braun did not file objections.

The Court reviews the findings and recommendations that are not specifically objected to for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). The Court

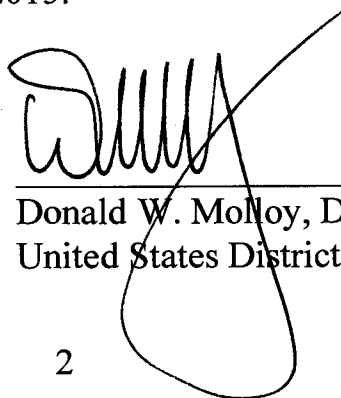
finds no clear error with Judge Lynch's determination that the Court should dismiss this action. Braun's claims for money damages under the Freedom of Information Act are barred by sovereign immunity and the Court's resulting lack of jurisdiction. Braun's claims for monetary relief under the Privacy Act are insufficient to state a claim upon which relief can be granted. The Court finds no clear error with Judge Lynch's determination that any attempted amendment of the Complaint would be futile because the Department fully released to Braun all of the documents it possessed.

Accordingly, IT IS ORDERED that the Findings and Recommendation (Doc. 19) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (Doc. 8) is GRANTED, and Plaintiff's Complaint (Doc. 1) is DISMISSED without leave to amend.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this case.

Dated this 3rd day of April, 2015.



Donald W. Molloy, District Judge
United States District Court