

FILED
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 PATRICK E. DUFFY, CLERK
 By _____
 DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MONTANA
 HELENA DIVISION

JACOB LEE MASHEK,)	CV 10-10-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
HEATHER SNELL, et al.,)	
)	
Defendants.)	
_____)	

A complaint was filed in this matter alleging Plaintiff Jacob Mashek's federal constitutional rights were violated and subjecting Defendants to liability under 42 U.S.C. § 1983. An Order was entered on March 12, 2010 finding that the Complaint failed to state a claim upon which relief could be granted, and the Plaintiff was permitted to file an Amended Complaint on or before April 9, 2010. After two subsequent motions for extension of time to file an amended complaint

were granted, Plaintiff failed to file an Amended Complaint. United States Magistrate Judge Keith Strong entered Findings and Recommendation on August 27, 2009 and recommended dismissing Mashek's complaint for failure to state a claim and failure to comply with a Court Order. Plaintiff did not timely object to the Findings and Recommendation and has therefore waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation 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).

After a review of Judge Strong's Findings and Recommendation, I find no clear error. Accordingly,

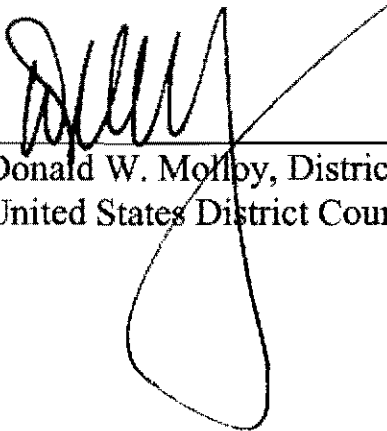
IT IS HEREBY ORDERED that Judge Strong's Findings and Recommendation (dkt #15) are adopted in full. Mashek's Complaint (dkt #1) is DISMISSED for failure to state a claim upon which relief may be granted and failure to comply with a Court Order.

The Clerk of Court is directed to close this matter and enter judgment by separate document in favor of Defendants. The Clerk of Court is also directed to have the docket reflect that the dismissal counts as a strike pursuant to 28 U.S.C. §

1915(g) because Mashek failed to state a claim upon which relief may be granted.

The Clerk of Court is further directed to have the docket reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.

Dated this 27th day of September, 2010.



Donald W. Molloy, District Judge
United States District Court