

**FILED**

OCT 30 2015

Clerk, U.S. District Court  
District Of Montana  
MissoulaIN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISIONCHARLOTTE TAYLOR-  
TILLOTSON,

Plaintiff,

vs.

STEVE BULLOCK, TIM FOX, and  
NANCY SWEENEY,

Defendants.

CV 15-48-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnson entered his Findings and Recommendations in this case on July 30, 2015, recommending dismissal of Taylor-Tillotson's § 1983 complaint with prejudice. Because Taylor-Tillotson timely objected to the Findings and Recommendations, the Court will conduct *de novo* review of the record. 28 U.S.C. § 636(b)(1). Those portions of the Findings and Recommendations to which Taylor-Tillotson has not specifically objected will be reviewed for clear error. *Id.*; *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Additionally, "[w]here a [plaintiff's] objections constitute 'perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the

original [complaint],’ the applicable portions of the findings and recommendations will be reviewed for clear error.” *Rosling v. Kirkegard*, 2014 WL 693315, at \*3 (D. Mont. Feb. 21, 2014) (quoting *Ramirez v. United States*, 898 F. Supp. 2d 659, 663 (S.D.N.Y. 2012)). For the reasons listed below, the Court adopts Judge Johnston’s Findings and Recommendations in full.

The Court will recite the factual and procedural background of the case only as necessary to explain its reasoning. Taylor-Tillotson, a Florida resident, married Lawrence Joseph Tillotson in 1977. In 1979, the marriage was dissolved by the state district court, with an attorney appearing on Taylor-Tillotson’s behalf. Lawrence died 15 years after the dissolution. Upon denial of spousal military and Social Security benefits, Taylor-Tillotson petitioned the Montana court to vacate the decree of dissolution. The district court dismissed her claim and the Montana Supreme Court dismissed her appeal *sua sponte*. *In re Marriage of Tillotson*, OP 13-0360 (Mont. June 25, 2013).

Judge Johnston found that Taylor-Tillotson, in attempting to set aside a dissolution decree 35 years after it was entered, failed to allege a violation of a federal right and thus failed to state a claim upon which relief may be granted. (Doc. 7.) Taylor-Tillotson objects, claiming that her fundamental right to marry was infringed when the state court did not reinstate her marriage.

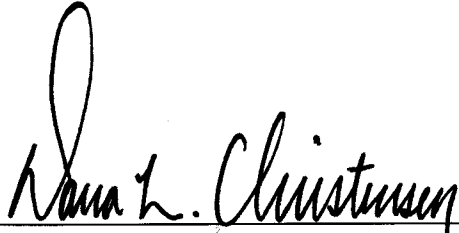
Taylor-Tillotson has failed to state a claim upon which relief may be granted. While denial of marriage rights and benefits may infringe upon a person's constitutional rights in some contexts, neither precedent nor logic extends that proposition to the claim presented here. *See U.S. v. Windsor*, \_\_\_ U.S. \_\_\_, 133 S.Ct. 2675 (2013); *Loving v. Virginia*, 388 U.S. 1, 12 (1967). Taylor-Tillotson has no constitutional right to reinstate her marriage to an ex-husband 35 years after dissolution and 20 years after the ex-husband's death.

Taylor-Tillotson may not proceed in forma pauperis if she chooses to appeal this Order. Fed. R. App. 24(3). Taylor-Tillotson has presented a frivolous claim with no arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An appeal could not be taken in good faith. *Id.*; Fed. R. App. 24(3)(A).

There being no clear error in the remainder of Judge Johnston's Findings and Recommendations,

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 7) are ADOPTED IN FULL. Taylor-Tillotson's complaint is DISMISSED with prejudice. The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

Dated this 30<sup>th</sup> day of October, 2015.

  
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Dana L. Christensen, Chief Judge  
United States District Court