

FILED

DEC 13 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

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

JOHN SHANNON FINLEY,

CV 18-00161-M-DLC-JCL

Plaintiff,

vs.

ORDER

ELLEN DONNAHUE, JOHN W.
LARSON, and LETA WOMACK,

Defendants.

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations on October 5, 2018, recommending that this matter be dismissed because Plaintiff John Finley failed to name a proper Defendant and his claims are barred by the doctrine set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994). (Doc. 5.)

The Findings and Recommendations were sent to Mr. Finley once on October 5, 2018 (Doc. 5) and again on October 11, 2018 upon discovery that the original mailing may have been mislabeled. (Staff Note, October 11, 2018.) Neither mailing was returned as undeliverable. Mr. Finley did not file objections and his failure to timely object to the Findings and Recommendations has resulted in a waiver of the right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C).

This Court reviews for clear error those findings and recommendations to which no party objects. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). 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) (citations omitted).

Having reviewed the record, the Court finds no clear error in Judge Lynch’s finding that Mr. Finley failed to name a proper Defendant and that his claims are barred by *Heck*, 512 U.S. 477. The Court adopts the Findings and Recommendations in full and will dismiss the Complaint.

Accordingly, IT IS ORDERED that:

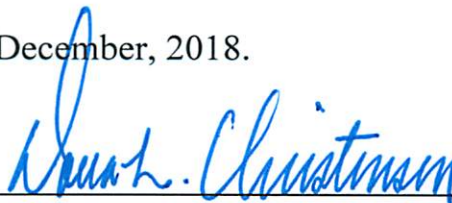
1. Judge Lynch’s Findings and Recommendations (Doc. 5) are ADOPTED IN FULL.

2. This matter is DISMISSED. The Clerk of Court is directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.

3. 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. No reasonable

person could suppose an appeal would have merit. The record makes plain the instant Complaint lacks arguable substance in law or fact.

DATED this 13th day of December, 2018.



Dana L. Christensen, Chief Judge
United States District Court