

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARRELL SMITH,

Plaintiff,

vs.

DEPARTMENT OF VETERANS
AFFAIRS,

Defendant.

No. 2:07-cv-00164-JKS-KJM

ORDER

Plaintiff, proceeding *pro se*, filed this action against the Department of Veterans Affairs seeking to recover benefits alleging a breach of contract. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On September 11, 2007 the Magistrate Judge filed Findings and Recommendations herein which were served on all parties and which contained notice to all parties that any objections to the Findings and Recommendations were to be filed within twenty days. No objections to the Findings and Recommendations have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this Court has reviewed the record on its face and finds no clear error.

Accordingly, IT IS HEREBY ORDERED THAT:

1. The Findings and Recommendations filed September 11, 2007, are adopted in full;
2. Defendant's motion to dismiss at Docket No. 7 is GRANTED;
3. The complaint is DISMISSED, without prejudice, for lack of subject matter jurisdiction;
and
4. The Clerk of the Court to enter final judgment accordingly.

Dated: February 1, 2008

s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge.