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

United States District Court
Northern District of California

RONALD HENRY,

Plaintiff,

v.

STATE OF ALASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES, et
al.,

Defendants.

Case No.: C 11-03255 JSC

**ORDER 1) DENYING PLAINTIFF’S
MOTION TO WITHDRAW CONSENT
TO A MAGISTRATE JUDGE AND 2)
DIRECTING PLAINTIFF TO SHOW
CAUSE AS TO WHY THE
DEPARTMENT OF HEALTH AND
HUMAN SERVICES IS A PROPER
DEFENDANT IN THIS ACTION (Dkt.
Nos. 26, 35)**

Now pending before the Court is Plaintiff’s motion to withdraw consent to a magistrate judge and re-assign this case “to a District Court Article III judge for the remainder of the proceedings.” (Dkt. No. 26 at 6.) The Court is also in receipt of a communication from Plaintiff requesting 1) a “re-visitation of the Court’s contention that it has no jurisdiction over the Alaska defendant”; 2) “a written order to support the retention of the jurisdiction of a magistrate judge”; and 3) “a written order clarifying [the Court’s] contention that it dismissed the United States Department of Health and Human Services . . . as defendant.” (Dkt. No. 35 at 2.)

1 First, as stated at the February 2, 2012 case management conference, the Court declines
2 to reconsider the dismissal of Alaska as a defendant. (See Dkt. No. 25.)

3 Second, Plaintiff consented to the jurisdiction of a United States magistrate judge
4 pursuant to 28 U.S.C. § 636(c). (Dkt. No. 6.) The Court notes Plaintiff's objection to this
5 Court's continued jurisdiction; however, "[t]here is no absolute right, in a civil case, to
6 withdraw consent to trial and other proceedings before a magistrate judge." Dixon v. Ylst, 990
7 F.2d 478, 480 (9th Cir. 1993). In fact, only a court can authorize such a withdrawal and only
8 "for good cause shown on its own motion, or under extraordinary circumstances shown by the
9 party." Id. (referencing 28 U.S.C. § 636(c)(6); Fed. R. Civ. P. 73(b); Fellman v. Fireman's
10 Fund Ins. Co., 735 F.2d 55, 58 (2d Cir. 1984)). Plaintiff has not shown "extraordinary
11 circumstances" that would support transfer of this case to a district court judge, and this Court
12 retains jurisdiction.

13 Third, Plaintiff alleges that though he agreed to dismiss the United States Department
14 of State as a defendant, this Court dismissed the Department of Health and Human Services
15 ("DHHS") improperly since he did not intend to agree to dismiss DHHS. (Dkt. No. 35 at 7;
16 Dkt. No. 25 at 6.) The Court previously found that Plaintiff did not have standing to bring his
17 claim against the federal government for theoretically denying him access to a passport since
18 he had not actually applied for a passport. (Dkt. No. 25 at 2.) It is unclear if Plaintiff alleges
19 any other specific harms suffered as a result of the federal government in general or DHHS in
20 particular. The Court orders Plaintiff to show cause as to why the Department of Health and
21 Human Services is a proper defendant in this case by filing, on or before April 20, 2012,
22 clarification as to the particular conduct of DHHS he challenges and the harm, if any, he
23 suffered as a result.

24 As noted at the February 2, 2012 case management conference, Defendant shall file a
25 Motion to Dismiss by April 6, 2012, Plaintiff shall file any opposition by April 20, 2012,
26 Defendant shall file any reply by April 27, 2012, and a hearing will commence on May 3,
27 2012 at 9:00 am.

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IT IS SO ORDERED.

Dated: April 5, 2012

JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE