

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

CALYSTA SHARP,

Plaintiff,

v.

ERIC HORNADAY,

Defendant.

Case No. 1:17-cv-00072-BLW

MEMORANDUM DECISION AND
ORDER

INTRODUCTION

Plaintiff Calysta Sharp initially filed her complaint in the Eastern District of California. *See Compl.*, Dkt. 1. The California federal court transferred the case to this Court, noting that “[a]lthough it is not clear from plaintiff’s pleading the basis of subject matter jurisdiction, it is apparent that venue is not proper in the Eastern District of California.” *See Feb. 10, 2017 Order*, Dkt. 3.

On April 17, 2017, United States Magistrate Judge Ronald E. denied Plaintiff’s Application to Proceed *In Forma Pauperis* because the application was incomplete, and further recommending that plaintiff’s complaint be dismissed without prejudice for lack of subject-matter jurisdiction. For the reasons set forth below, the Court agrees with this recommendation, and will therefore dismiss Plaintiff’s Complaint.

DISCUSSION

Under 28 U.S.C. § 636(b)(1)(C), this Court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge.” Where the parties object to a report and recommendation, this Court “shall make a *de novo* determination of those portions of the report which objection is made.” *Id.* Where, however, no objections are filed the district court need not conduct a *de novo* review. *See, e.g., United States v. Reyna–Tapia*, 328 F.3d 1114, 1121 (9th Cir.2003). Furthermore, to the extent that no objections are made, arguments to the contrary are waived. *See* Fed. R. Civ. P. 72; 28 U.S.C. § 636(b)(1) (objections are waived if they are not filed within fourteen days of service of the Report and Recommendation).

Here, no objections were filed so the Court is not required to conduct a *de novo* determination of the Recommendation. Regardless, however, the Court has conducted such a review and agrees with the Magistrate Judge’s recommendation. Plaintiff has not put forth any basis for federal-question jurisdiction and it does not appear that the complaint could be saved by any amendment. Accordingly, the Court will dismiss plaintiff’s claims for lack of jurisdiction.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that:

- (1) The Report and Recommendation entered on April 17, 2017 (Dkt. 8), shall be, and is hereby, INCORPORATED by reference and ADOPTED IN ITS ENTIRETY.

(2) Plaintiff's complaint is DISMISSED without prejudice.



DATED: September 23, 2017

B. Lynn Winmill

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Chief Judge

United States District Court