

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Daniel Thomas TePoel, Beneficiary Pre-1933
Private American National Citizen of the
United States,

Civil No. 15-sc-3038 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Barack Obama, Trustee, Commander in chief,
United States of America; and Jacob Lew,
Trustee, Secretary of the Treasury,
United States of America,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois dated July 27, 2015. (Doc. No. 3.) Defendant Daniel TePoel (“TePoel” or “Plaintiff”) filed objections on August 13, 2015. (See Doc. Nos. 4, 5, 6.) Despite being untimely, the Court considers Plaintiff’s objections below.

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. In the Report and Recommendation, the Magistrate Judge concluded that Plaintiff’s Complaint contained non-original frivolous claims and failed to state a claim on which relief may be granted. (Doc. No. 3 at 2.) The Magistrate Judge further concluded that “even taking TePoel’s non-conclusory allegations in the complaint as true, nothing in Plaintiff’s

Complaint amounts to a violation of federal or state law by defendants Obama and Lew.”

(*Id.* at 3.) Finally, the Magistrate Judge concluded that Plaintiff’s allegations necessarily imply that the judgment entered in his criminal case was not valid, which is in violation of *Heck v. Humphrey*, 512 U.S. 477 (1994).

Plaintiff appears to generally object to the Magistrate Judge’s recommendation that this case be dismissed. The undersigned agrees with the Magistrate Judge’s determination that Plaintiff’s Complaint fails to state a claim for relief and is frivolous. (*See generally* Doc. No. 3.) The Court has reviewed Plaintiff’s additional filings. However, even taking into consideration the additional allegations contained within Plaintiff’s objections, including the “Fidelity Select Financial Services” analysis, which Plaintiff appears to assert constitutes consideration for some sort of binding contract, Plaintiff’s Complaint still would not survive a motion to dismiss for the reasons stated in the Report and Recommendation. (*See id.*) The Court thus concludes, as did Magistrate Judge Brisbois, that Plaintiff’s action is frivolous and fails to state a claim upon which relief may be granted.

Accordingly, based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Leo I. Brisbois's Report and Recommendation (Doc. No. [3]) is **ADOPTED**.
2. This action is **DISMISSED WITH PREJUDICE** under 28 U.S.C. § 1915A.
3. Plaintiff Daniel TePoel's petition to seal (Doc. No. [2]) is **DENIED**.
4. The Docket, including the Complaint, in this matter shall be **UNSEALED**, but the exhibits to the Complaint shall remain **SEALED** as detailed in the Report and Recommendation.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 21, 2015

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge