

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Corey Edward Fisherman,

Civil No. 17-4348 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Ryan Zinke,¹ Secretary of the Interior,

Defendant.

This matter is before the Court upon Plaintiff Corey Edward Fisherman's ("Plaintiff") *pro se* objections (Doc. No. 5) to Magistrate Judge Franklin L. Noel's April 16, 2018 Report and Recommendation (Doc. No. 4) insofar as it recommends that: (1) this matter be dismissed without prejudice pursuant to 28 U.S.C. §§ 1915(3)(2)(B)(ii) and 1915A; (2) Plaintiff's application to proceed *in forma pauperis* be denied; and (3) Plaintiff pay the unpaid balance of the statutory filing fee for this action (\$350) in the manner prescribed by 28 U.S.C. § 1915(b)(2), and the Clerk of Court provide notice of this requirement to the authorities at the institution where Plaintiff is confined.

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections. In the Report and Recommendation, the Magistrate Judge

1 Plaintiff names Kenneth Lee Salazar in his official capacity as United States Secretary of the Interior as defendant to this action. Salazar long ago vacated that office, which is now held by Ryan Zinke. Under Fed. R. Civ. P. 25(d), Zinke is automatically substituted as defendant to this action.

recommended that this action be dismissed without prejudice based on Plaintiff's failure to state a cause of action upon which relief may be granted. Specifically, the Magistrate Judge found that Plaintiff offers no factual allegations that, if proven true, would demonstrate that the federal government mismanaged his money held in IIM trust for his benefit, or that he is entitled to relief for any other reason. In addition, the Magistrate Judge explained that the allegations in Plaintiff's complaint are entirely conclusory.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). After this review, the Court finds no reason that would warrant a departure from the Magistrate Judge's recommendations. The Magistrate Judge correctly concluded that Plaintiff has failed to state a claim upon which relief may be granted. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Corey Edward Fisherman's objections (Doc. No. [5]) to Magistrate Judge Franklin L. Noel's April 16, 2018 Report and Recommendation are

OVERRULED.

2. Magistrate Judge Franklin L. Noel's April 16, 2018 Report and Recommendation (Doc. No. [4]) is **ADOPTED.**

3. This matter is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. §§ 1915(3)(2)(B)(ii) and 1915A.

4. Plaintiff Corey Edward Fisherman's application to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED**.

5. Plaintiff Corey Edward Fisherman shall pay the unpaid balance of the statutory filing fee for this action (\$350) in the manner prescribed by 28 U.S.C. § 1915(b)(2), and the Clerk of Court shall provide notice of this requirement to the authorities at the institution where Plaintiff is confined.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 31, 2018

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