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BILLINGS DIV.

2009 AUG 3 PM 1 15

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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

**DONALD FERGUSON,**

**Plaintiff,**

**vs.**

**UNITED STATES DISTRICT  
COURT, JACK D. SHANSTROM,  
PATRICK E. DUFFY, and RYAN  
M. ARCHER,**

**Defendants.**

)  
) **CV-09-70-BLG-RFC**  
)  
)  
) **ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**  
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On June 22, 2009, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 3*) with respect to Plaintiff’s Complaint and “Counterclaim for Trespass and Trespass on the Case.” (*Doc. 1*). Magistrate Judge Ostby recommends Plaintiff’s Complaint be dismissed.


Upon service of a magistrate judge’s findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiff filed a “Writ of Error Coram Non Judice of ‘Cause No. CV-09-00070-BLG-RFC-CSO Findings and Recommendation of United States Magistrate Judge to Dismiss Complaint and Order by Praecepte,” on June 26, 2009. The Court

construes this document as an objection. Plaintiff's objections require this Court to make a *de novo* determination of those portions of the Findings and Recommendations to which objection is made. 28 U.S.C. § 636(b)(1). Plaintiff's objections are not well taken.

After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Ostby are well grounded in law and fact and HEREBY ORDERS they be adopted in their entirety. Plaintiff has only named individuals entitled to immunity and he seeks to challenge his criminal conviction, which has not been reversed, declared invalid, expunged or called into question. There is no merit to this case.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Complaint (*Doc. #1*) is DISMISSED. The Clerk of Court is directed to notify the parties of the making of this Order, enter judgment pursuant to Rule 58, F.R.Civ.P., and close this case accordingly.

DATED this 3<sup>rd</sup> day of August, 2009.

  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE