

FILED
IN THE UNITED STATES DISTRICT COURT BILLINGS DIV.

2010 FEB 5 AM 11 07
FOR THE DISTRICT OF MONTANA

PATRICK E. DUFFY, CLERK

BILLINGS DIVISION

BY _____
DEPUTY CLERK

JOEL MILES WHITE)

CV-09-165-BLG-RFC-CSO

Plaintiff,)

vs.)

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE

16TH DISTRICT COURT; MIKE)

MIKE FERRITER, DOC)

DIRECTOR; LISA GRADY,)

COLLECTIONS MGR; SAM LAW)

WARDEN, CCC/CCA,)

Defendants.)

_____)

On July 25, 2007, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 4*) on White's Motion for Leave to Proceed in Forma Pauperis (*Doc. 1*) and proposed Complaint.

(*Doc. 2*). Magistrate Judge Ostby recommends the Motion for Leave to Proceed in Forma Pauperis be denied and that the Complaint be dismissed as frivolous.

Magistrate Judge Ostby further recommends the docket reflect (1) that the filing of this action count as one strike against Plaintiff, pursuant to 28 U.S.C. § 1915(g)

and (2) pursuant to Rule 24(a)(3)(A) Fed.R.App.P. that any appeal of this decision would not be taken in good faith.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections to the Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). Failure to object, however, does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After a thorough review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that White's Motion to Proceed in Forma Pauperis (*Doc. 1*) is **DENIED** and his Complaint (*Doc. 2*) is **DISMISSED** as being barred by res judicata and the Rooker-Feldman doctrine.

IT IS FURTHER ORDERED that the docket reflect that the filing of this action count as one strike against White pursuant to 28 U.S.C. § 1915(g) and, pursuant to Rule 24(a)(3)(A) Fed.R.App.P., that any appeal of this decision would not be taken in good faith.

The Clerk of Court shall notify the parties of the entry of this Order and enter judgment accordingly.

DATED the 5 day of February 2010.

A handwritten signature in black ink, appearing to read "Richard F. Cebull", written over a horizontal line.

RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE