

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

FILED
BILLINGS DIV.

2011 NOV 15 PM 1 18

PATRICK E. DUFFY, CLERK

BY _____
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BENEDICT SHOULDERBLADE,)
)
 Plaintiff,)
)
 vs.)
)
 ATTORNEY STEVEN C.)
 BABCOCK,)
)
 Defendant.)
 _____)

CV-11-109-BLG-RFC-CSE

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

Plaintiff Benedict Shoulderblade, a prisoner proceeding *pro se*, has filed this action against his Federal Defender, Steven C. Babcock, alleging Babcock refused to answer letters as to why he would not return personal property. On October 24, 2011, United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendations (*doc. 4*) as to his motion to proceed *in forma pauperis* (*doc. 1*). Judge Ostby has concluded that the motion should be denied and the complaint (*doc. 2*) dismissed because Shoulderblade has failed to allege a federal claim over which this Court has subject matter jurisdiction.

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). No objections have


yet been filed. In fact, mail sent to Shoulderblade by the Court was returned because he is no longer incarcerated at the Yellowstone County Detention Facility and he failed to follow the Court's admonition to inform the Clerk of Court of any change in address. *Doc. 3, p.2*. 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), but this Court must still review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After such a review, the Court concludes 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 Shoulderblade's Motion to Proceed In Forma Pauperis (*doc. 1*) is **DENIED** and his Complaint (*doc. 2*) is **DISMISSED** for lack of subject matter jurisdiction.

The Clerk of Court shall enter judgment in favor of Defendant Steven C. Babcock and close this case.

DATED the 15th day of November, 2011.



RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE