

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

FILED

AUG 06 2012

PATRICK E. DUFFY CLERK
BY _____
Deputy Clerk
U.S. DISTRICT COURT
BILLINGS DIVISION

TODD KENNETH HOROB)	
)	Cause No. CV-12-19-BLG-RFC
Plaintiff,)	
)	
v.)	ORDER ADOPTING FINDINGS
)	AND RECOMMENDATIONS OF
THE UNITED STATES and U.S.)	U.S. MAGISTRATE JUDGE
ATTORNEY RYAN ARCHER)	
)	
Defendants.)	
_____)	

Todd Horob has filed yet another frivolous pro se lawsuit challenging his fraud conviction in CR-08-93-BLG-RFC. *E.g.* CV-10-37-RFC; CV-11-55-DWM; CV-11-66-DWM; and CV-11-80-RFC; *See also* CV-09-156-RFC; 12-41-RFC (frivolous pro se lawsuits challenging the conditions of his confinement). This particular lawsuit is another chapter in Horob’s conspiracy theory that the transcript and records of his trial were altered and that he was convicted based on false testimony and evidence. Among other things, Horob alleges the Court “re-edited” his testimony and that the Court, prosecutor, and court reporter have conspired to prevent an expert to testify about the altered court record. For relief,

Horob asks that he be released from custody, that the prosecutor on his case be imprisoned for 20 years for fraud and barred from the judicial system, and that he be awarded \$25 million in damages pursuant to his federal tort claim.

Pending before the Court is the review of United States Magistrate Judge Carolyn Ostby's Findings and Recommendation (*doc. 4*) as to the 28 U.S.C. § 1915 and 1915A prescreening of Horob's pro se prisoner complaint. Judge Ostby recommends Horob's Complaint be dismissed because it is frivolous, fails to state a claim upon which relief may be granted, and seeks relief from immune defendants. Judge Ostby further recommends the dismissal be with prejudice because no amendment could possibly cure the deficiencies in his pleading.

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). Horob has filed numerous documents in this case that the Court construes as an objections to the entirety of Judge Ostby's Findings and Recommendations. *See docs. 6-15*. This Court must therefore make a *de novo* determination of the Findings and Recommendations. 28 U.S.C. § 636(b)(1). Such a review makes clear that all of Horob's claims are barred by prosecutorial immunity, collateral estoppel, and the *Heck* doctrine. As they are well-grounded in both law and fact, Judge Ostby's Findings and Recommendations are adopted in their entirety.

IT IS HEREBY ORDERED that Horob's Complaint (doc. 2) is **DISMISSED WITH PREJUDICE** as it is both frivolous and malicious.

IT IS FURTHER ORDERED that Horob's Motion to Authenticate Court record (doc. 8) is **DENIED**.

The Clerk of Court is directed ensure that the docket reflect (1) that this dismissal count as one strike against Horob pursuant to 28 U.S.C. § 1915(g) and (2) that this Court certifies pursuant to Rule 24(a)(3)(A) Fed.R.App.P. that any appeal of this decision would be in bad faith. The Clerk of Court shall then enter judgment against Horob and close this case.

DATED this 6th day of August, 2012.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE