

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

FILED
OCT 04 2012
Clerk, U.S. District Court
District Of Montana
Billings

JACKSON BRYANT BAUGUS,

Plaintiff,

vs.

**SAM E. HADDON, District Court
Judge in his Individual and
Judicial Capacities; THOMAS E.
BOLAND, ESQ., class counselor in
his individual and official
capacities; and VICTORIA L.
FRANCIS, Assistant U.S.
Attorney, in her individual and
official capacities,**

Defendants.

CV-12-109-BLG-RFC-CSO

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

Plaintiff Jackson Baugus, a prisoner proceeding pro se, has filed this civil action alleging Defendants conspired to issue a Writ of Garnishment to collect fines issued as part of the criminal judgment entered by Judge Haddon in Cause No. CR-02-133-SEH. United States Magistrate Judge Carolyn Ostby has entered Findings and Recommendations (doc. 6) with respect to the 28 U.S.C. §§ 1915 and 1915A prescreening of Baugus's Complaint (doc. 2). Magistrate Judge Ostby

recommends the Complaint be dismissed with prejudice for failure to state a cognizable claim. It is further recommended that the dismissal of this action count as another “strike” against Baugus pursuant to 28 U.S.C. § 1915(g)¹ and that this Court certify pursuant to Fed.R.App.P. 24(a)(3)(A) that an appeal of this dismissal 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). That time has passed without objection from Baugus. 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 reviewing the record and applicable law, the only conclusion is that Magistrate Judge Ostby’s Findings and Recommendation are well grounded in law and fact. Not only are all of Baugus’s claims time-barred and issue-precluded, but Judge Haddon and Ms. Francis are absolutely immune from suit and Mr. Boland cannot be liable under § 1983 because he is not a state actor.


¹This Court has already assessed one strike against Baugus for filing a frivolous civil action. *Baugus v. Billings Police Dept.*, 2010 WL 4279407 (D.Mont. Oct. 19, 2010) aff’d by 465 Fed.Appx. 690 (9th Cir. 2012).

Accordingly, **IT IS HEREBY ORDERED** that Magistrate Judge Ostby's Findings and Recommendations (doc. 6) are adopted in their entirety: Baugus's Complaint (doc. 2) is **DISMISSED WITH PREJUDICE**.

The Clerk of Court is directed to:

- (1) enter judgment against Baugus pursuant to Rule 58 of the Federal Rules of Civil Procedure;
- (2) ensure that the docket reflects that this Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.
- (3) ensure that the docket reflects that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g); and
- (4) close this case.

DATED this 4th day of October, 2012.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE