

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

FILED

OCT 21 2015

Clerk, U.S. District Court
District Of Montana
Billings

MONTE C. LITTLE COYOTE, JR.,

CV 15-0076-BLG-SPW

Plaintiff,

vs.

ORDER

LORI HARPER SUEK; DAWN
ROBERTS, DONALD W. MALLOY;
CAROLYN S. OSTBY; UNKNOWN
F.B.I. AGENT; UNKNONW B.I.A.
AGENT; UNKNOWN TRIBAL POLICE,

Defendants.

Plaintiff Monte Little Coyote, a federal inmate proceeding without counsel, filed a Complaint pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). (Doc. 4.) The Complaint was dismissed September 29, 2015. (Doc. 7.) On October 19, 2015, Little Coyote filed a “Motion for Leave to Alter or Amend the Judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure; and/or Notice of Appeal; Motion to Stay and Abey.” (Doc. 9.)

A motion to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure may be granted:

(1) if such motion is necessary to correct manifest errors of law or

fact upon which the judgment rests; (2) if such motion is necessary to present newly discovered or previously unavailable evidence; (3) if such motion is necessary to prevent manifest injustice; or (4) if the amendment is justified by an intervening change in controlling law.

Allstate Ins. Co. v. Herron, 634 F.3d 1101, 1111 (9th Cir. 2011).

Little Coyote does not raise any manifest errors of law or fact, any newly discovered evidence, an intervening change in the law, or a manifest injustice. Instead, he raises arguments similar to those raised in his Objections to the Findings and Recommendations filed in this case. (Doc. 6.) He argues that litigants in other jurisdictions have also filed motions for reconsideration or objections to reports and recommendations but he does not explain how those filings would necessarily change this Court's analysis in his case.

He also reargues that the Court's dismissal of his claims prior to service on Defendants violates Fed.R.Civ.P. 12(b)(6). This argument, however, has already been addressed by the Court and will not be reconsidered.

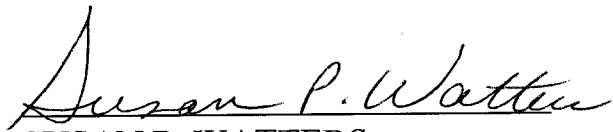
As stated in the Court's prior Order (Doc. 7), Little Coyote is seeking civil remedies based upon alleged unconstitutional acts which would imply the invalidity of his conviction. Since his conviction has not been invalidated, his Complaint is barred by the doctrine set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994). Nothing presented in Little Coyote's motion for reconsideration changes

the Court's analysis on this issue.

Accordingly, IT IS HEREBY ORDERED that Mr. Little Coyote's Motion for Leave to Alter or Amend the Judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure (Doc. 9) is DENIED.

Pursuant to Fed.R.App.P. 4(a)(4)(B)(i), the Clerk shall process Little Coyote's filing (Doc. 9) as a notice of appeal.

DATED this 21st day of October, 2015.


SUSAN P. WATTERS
United States District Judge