

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

FILED

MAR 28 2018

Clerk, U S District Court
District Of Montana
Billings

KRISSY SANCHEZ,

Plaintiff,

vs.

CFS DEPT. OF HEALTH AND
HUMAN SERVICES STATE OF
MONTANA, et al.,

Defendants.

CV 17-156-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

Plaintiff Krissy Sanchez, appearing pro se, filed a motion to proceed in forma pauperis (Doc. 1), a proposed complaint (Doc. 2), a petition for writ of habeas corpus and emergency motion for return of child (Doc. 6), and a motion for emergency injunction (Doc. 8). Sanchez alleges Defendants violated her first, fourth, and fourteenth amendment rights under the United States Constitution by removing her children from her custody without sufficient cause. (Doc. 2 at 6).

United States Magistrate Judge Timothy J. Cavan filed Findings and Recommendations on March 6, 2018. (Doc. 9). Judge Cavan granted Sanchez's motion to proceed in forma pauperis but recommended this Court dismiss most of the claims and stay the case. (Doc. 9 at 12-13).

Pursuant to 28 U.S.C. § 636(b)(1), Sanchez was required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 9) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Sanchez's petition for writ of habeas corpus and emergency motion for return of child (Doc. 6) are DENIED.

IT IS FURTHER ORDERED that Sanchez's claim for injunctive relief is DISMISSED.

IT IS FURTHER ORDERED that Sanchez's claim for monetary damages is STAYED until the state court proceedings are completed and final. The Clerk of Court is directed to administratively close this case.

IT IS FURTHER ORDERED that if Sanchez desires to proceed with this case after disposition of the state court custody proceeding, she must file a motion

requesting the case be reopened and the stay lifted within thirty days of disposition of the state court custody proceeding, unless an appeal is filed. If she appeals, any request to reopen and lift the stay must be filed within thirty days of completion of the appellate process.

IT IS FURTHER ORDERED that Sanchez's motion for emergency injunction (Doc. 8) is DENIED.

DATED this 27th day of March, 2018.

A handwritten signature in blue ink that reads "Susan P. Watters". The signature is written in a cursive style and is positioned above a horizontal line.

SUSAN P. WATTERS
United States District Judge