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PATRICK E. DEPTY, CLERK

BY _____

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BUTTE DIVISION

JOEL THOMAS STEINMETZ,

)

CV-09-72-BU-RFC

)

Plaintiff,

)

vs.

)

ORDER ADOPTING

)

U.S. POSTAL SERVICE, et al.,

)

FINDINGS AND

)

RECOMMENDATION OF

)

U.S. MAGISTRATE JUDGE

Defendants.

)

)

On June 16, 2010, United States Magistrate Judge Carolyn Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends that this matter be dismissed.

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). In this matter, Plaintiff filed objections on July 1, 2010. Plaintiff’s objections require this Court to make a *de novo* determination of those portions of the Findings and

Recommendations to which objection is made. 28 U.S.C. § 635(b)(1). After a *de novo* review, the Court determines that Plaintiff's objections are not well-taken and the Findings and Recommendation of Magistrate Judge Ostby are well grounded in law and fact. **IT IS HEREBY ORDERED** the Findings and Recommendation be adopted in their entirety.

Steinmetz's Complaint alleges a variety of claims arising from his prior Merit System Protection Board (MSPB) proceedings. This Court found in Steinmetz's earlier case (Civil Action No. 07-CV-00132-BLG-RFC-SCO) that the Federal Circuit is vested with exclusive jurisdiction under 5 U.S.C. § 7703(b)(1) to review errors or irregularities arising from MSPB proceedings in non-discrimination claims. To preserve any possible appeal rights Plaintiff may have had, this Court transferred the previous case to the Federal Circuit. Any claims regarding irregularities arising from his MSPB proceedings should have been presented to the Federal Circuit. This Court has no jurisdiction to review the irregularities raised in Steinmetz's current Complaint and it has no jurisdiction to review any decisions of the Federal Circuit.

Accordingly, **IT IS HEREBY ORDERED** that this matter is **DISMISSED** for lack of subject matter jurisdiction. The Clerk of Court shall notify the parties of the making of this Order and enter judgment accordingly.

Plaintiff filed a Notice of Appeal in this case on August 5, 2010. However, said Notice of Appeal was filed prior to the filing of this Order and the Clerk's entry of Judgment. If Plaintiff intends to appeal this decision, he must file another notice of appeal after Judgment is entered by the Clerk of Court.

If Plaintiff files a notice of appeal after his receipt of this Order and after entry of Judgment, the clerk is directed to notify the Court of Appeals of this Court's certification that the appeal is not taken in good faith. It is sufficiently clear that this Court does not have subject matter jurisdiction over Steinmetz's claims and no reasonable person would suppose an appeal would have merit.

DATED this 9th day of August, 2010.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE