

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

JAMES JEROME MORRISON, JR.,

Plaintiff,

vs.

CARISSA LYNN-KOPP, SUSAN F.
CARROLL, KURT KRUEGER,
SAMM COX, CHRISTOPHER E.
QUIGLEY, CIANA DALE, KARA
RICHARDSON, BRAD NEWMAN,
MARK VUCUROVICH, MICHAEL
ANDERSON, and WALTER M.
HENNESSEY,

Defendants.

CV-17-35-BU-BMM-JCL

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

Plaintiff James Jerome Morrison, Jr. filed a Complaint presenting allegations regarding Defendants' actions that occurred during: (1) criminal proceedings against Morrison; and (2) hearings conducted by the Montana Department of Family Services relative to his parental rights of his daughter. (Doc. 2 at 8.) Morrison alleges that Defendants used false, fabricated, coerced, and erroneous information against him in each referenced proceeding. *Id.*

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in this matter on November 16, 2017. (Doc. 7.) Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Lynch's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

I. Criminal Proceedings

Judge Lynch concluded that Morrison's allegations challenge the validity of the criminal prosecution against him, and his resulting criminal conviction and sentence. (Doc. 7 at 4.) Judge Lynch determined that Morrison's allegations are barred under the authority of *Heck v. Humphrey*, 512 U.S. 477 (1994). The plaintiff must establish that the conviction or sentence has already been invalidated through an appropriate legal action before a plaintiff can pursue a 42 U.S.C. § 1983 claim that would render a criminal conviction or sentence invalid. *Id.* at 486-87.

Judge Lynch determined that Morrison's allegations seek a legal decision that Defendants' actions and conduct during the course of the criminal proceedings were unlawful and unconstitutional. (Doc. 7 at 5.) A ruling in Morrison's favor would imply that the criminal proceedings, and the resulting conviction were unlawful. *Id.* Judge Lynch determined that Morrison does not allege that his

criminal conviction or sentence have been reversed through other appropriate legal action. *Id.* *Heck* bars Morrison's claim.

II. Parental Rights

Judge Lynch determined that Morrison alleges that various Defendants engaged in a course of misconduct to produce false or fabricated evidence against him. Morrison alleged that this course of misconduct resulted in the termination of his parental rights. (Doc. 7 at 6.) Judge Lynch determined that Morrison currently has a parental rights case on appeal to the Montana Supreme Court from Montana Second Judicial District Court. *Id.*

A strong policy exists against federal intervention in pending state judicial processes in the absence of extraordinary circumstances. *Younger v. Harris*, 401 U.S. 37, 43-45 (1971). The Ninth Circuit has determined that federal courts must abstain under *Younger* if the following requirements are met: (1) there exists an ongoing proceeding initiated by the state; (2) the proceeding implicates important state interests; (3) the federal plaintiff has the opportunity to litigate federal constitutional issues in the state proceeding; and (4) the federal court action would enjoin the proceeding or have the practical effect of doing so. *San Jose Silicon Valley Chamber of Commerce Political Action Committee v. City of San Jose*, 546 F.3d 1087, 1091 (9th Cir. 2008).

Judge Lynch concluded that Morrison's claims satisfy the *Younger* abstention requirements. Judge Lynch further determined that *Younger* abstention applies differently to claims for monetary damages than it does to claims for injunctive and declaratory relief. (Doc. 7 at 10.) Claims for injunctive and declaratory relief should be dismissed without prejudice while claims for monetary relief should be stayed pending resolution of the state court proceedings. *Lampley v. Toris*, 2012 WL 846460 at *4 (C.D. Cal. 2012).

The Court has reviewed Judge Lynch's Findings and Recommendations for clear error. The Court finds no error in Judge Lynch's Findings and Recommendations, and adopts them in full.

IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 7), are **ADOPTED IN FULL**.

IT IS ORDERED that Morrison's allegations and claims which, in substance, challenge the validity of his criminal conviction or sentence are barred by *Heck* and should be **DISMISSED**.

IT IS ORDERED that Morrison's allegations and claims challenging Defendants' actions in the course of his state court parental rights proceedings are **DISMISSED** to the extent that Morrison seeks injunctive relief, i.e. requesting that all false information about him created by Defendants' conduct be purged from all proceedings and investigative files.

IT IS FURTHER ORDERED that to the extent Morrison's allegations and claims seek monetary damages, the claims are **STAYED** until the state court proceedings are completed and final.

DATED this 7th day of December, 2017.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris
United States District Court Judge