

FILED

JAN 29 2010

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, BUTTE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

JEREMIAH CLAY PRESTON,

Plaintiff,

vs.

SHERIFF DAVID CASTLE,
CAPTAIN DAN O'FALLON, NURSE
PRACTITIONER LAURAL
VANDERCHEK, CORPORAL BILL
NEVINS, OFFICER MIKE
DESSAULT, OFFICER WILLIAM
KOMAR, and the CASCADE
COUNTY BOARD OF COUNTY
COMMISSIONERS,

Defendants.

CV 07-122-GF-SEH

ORDER

On November 19, 2009, United States Magistrate Judge Keith Strong entered Findings and Recommendations¹ in this matter. Plaintiff filed objections

¹ Docket No. 59.

on December 28, 2009². The Court reviews *de novo* findings and recommendation to which objections are made. 28 U.S.C. § 636(b)(1).

Upon *de novo* review of the record, I find no error in Judge Strong's Findings and Recommendations and adopt them in full.

Also before the Court is Plaintiff's Motion for Continuance.³ Plaintiff, by affidavit, claims additional discovery is needed under Fed. R. Civ. P. 56(f). "A party requesting a continuance pursuant to Rule 56(f) must identify by affidavit the specific facts that further discovery would reveal, and explain why those facts would preclude summary judgment." Tatum v. City and County of San Francisco, 441 F.3d 1090, 1100 (9th Cir. 2006). Here, Plaintiff's affidavit fails to either identify the specific facts further discovery may reveal, or explain why those facts would preclude summary judgment. Plaintiff does not satisfy his burden under Fed. R. Civ. P. 56(f).

ORDERED:

1. Defendants' Motions for Summary Judgment⁴ are GRANTED.

²Document No. 62.

³Document No. 63.

⁴Document Nos. 29 and 47.

2. Plaintiff's Motion for Continuance⁵ is DENIED.

3. The Clerk of Court is directed to close this matter and enter judgment pursuant to Fed. R. Civ. P. 58.

4. Any appeal of this decision would not be taken in good faith as no reasonable person could conclude that an appeal had merit. Fed. R. App.

24(a)(3)(A).

DATED this 29th day of January, 2010.


SAM E. HADDON
United States District Judge

⁵Document No. 63.