

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

**FILED**

JUL 01 2013

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

THOMAS LONNIE RODRIGUEZ,

CV 13-29-GF-DWM-RKS

Plaintiff,

ORDER

vs.

TIMOTHY WRIGHT, CASCADE  
COUNTY ADULT DETENTION  
REGIONAL CORRECTIONAL  
FACILITY, CORPORAL BRYCE,  
CORRECTIONAL OFFICER MILLER,  
CORRECTIONAL OFFICER  
PATTERSON, CORRECTIONAL  
OFFICER ANDERSON, and  
CORPORAL TROMBLEY

Defendants.

Timothy Rodriguez claims the defendants violated his eighth amendment rights after an altercation he had with another prisoner. Rodriguez is a prisoner proceeding in forma pauperis, so his complaint must be reviewed under 28 U.S.C. §§ 1915, 1915A. Magistrate Judge Keith Strong recommends dismissing Rodriguez's complaint with prejudice and ordering a strike against Rodriguez under 28 U.S.C. § 1915(g).

Rodriguez had 14 days to file objections to Judge Strong's Findings and Recommendation. He did not do so. So the Court reviews the Findings and

Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no clear error. Rodriguez's eighth amendment claim fails because Rodriguez initiated the underlying incident, and he failed to report his injuries. He does not allege that any official knew or disregarded an excessive risk to his safety. For the reasons given in the Findings and Recommendation, the Court dismisses Rodriguez's complaint with prejudice.

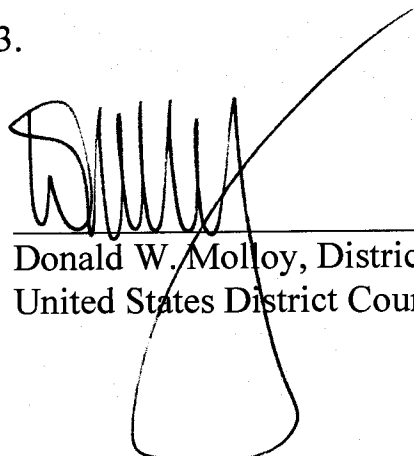
IT IS ORDERED that the Findings and Recommendation (doc. 10) is adopted in full.

IT IS FURTHER ORDERED that Thomas Rodriguez's complaint (doc. 2) is DISMISSED WITH PREJUDICE. The Clerk of Court is directed to close this case and enter judgment in favor of the defendants.

IT IS FURTHER ORDERED that the Clerk of Court is directed to indicate on the docket that this dismissal is a strike under 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that the Court certifies that any appeal taken from this case would not be taken in good faith. *See* Fed. R. Civ. P. 24(a)(3)(A).

Dated this 15<sup>th</sup> day of July 2013.

  
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Donald W. Molloy, District Judge  
United States District Court