

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

THOMAS ALVARADO,

Plaintiff,

vs.

WARDEN CROSSROADS
CORRECTIONAL CENTER, et al.,

Defendants.

CV-15-00005-GF-BMM-JTJ

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

Plaintiff Thomas Alvarado, a federal inmate, filed a Complaint *pro se* alleging violations of 42 U.S.C. § 1983. (Doc. 2.) Alvarado alleges that Defendant staff members of Crossroads Correctional Center in Shelby, Montana (“Defendants”) deprived him of various constitutional rights by denying him pain medications and other medical treatment for an injured knee and finger. *Id.* Defendants filed a Motion for Summary Judgment claiming that Alvarado failed to utilize the administrative grievance procedure at the correctional center. (Doc. 41.) United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on June 21, 2017. (Doc. 69.) 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 Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston outlined the Defendants' administrative grievance procedure, applied that procedure to the facts at issue, and determined that the procedure remained unavailable for Alvarado. (Doc. 69 at 6-14.) The Court excuses an inmate-plaintiff from participating in a generally required administrative grievance procedure if that procedure stands effectively unavailable to the inmate-plaintiff during the relevant time period. *Albino v. Baca*, 747 F.3d 1162, 1172 (9th Cir. 2014). Judge Johnston determined that the applicable grievance procedure remained unavailable to Alvarado during the period following his knee and finger injury. (Doc. 69 at 13.) Judge Johnston noted that the Bureau of Prisons transferred Alvarado before his grievance forms were due and that prison officials failed to make the forms available to him after his transfer. *Id.*

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

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 69) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (Doc. 41), is DENIED.

DATED this 25th day of July, 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