

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

THOMAS MASCARENA,

Plaintiff,

vs.

DAVID BERKEBILE, Warden-
Crossroads Correctional Center;
BRANDY SHERRARD, Classification
Coordinator; CAMILLE WANDLER,
Unit Manager; TIMOTHY ALLRED-
Board of Pardons and Parole; Officer
BURDITT-Institutional Probation and
Parole Office; MIKE BATISTA,
Director-Department of Corrections;
KARI KINYON, D.O.C. Contract
Monitor; STATE OF MONTANA, et
al.,

Defendants.

CV-15-50-GF-BMM

ORDER

United States Magistrate Judge John Johnston issued an Order on June 16, 2015, informing Plaintiff Thomas Mascarena (Mascarena) that the *pro se* Complaint he had filed in this matter failed to state a claim upon which relief could be granted, and was therefore subject to dismissal. (Doc. 1 at 21). Judge Johnston gave Mascarena an opportunity to cure the defects in the Complaint by filing an Amended Complaint on or before July 24, 2015. (Doc. 1 at 21, 25). Judge

Johnston informed Mascarena that the failure to file a timely Complaint could result in the dismissal of this action. (Doc. 1 at 23). Mascarena did not file an Amended Complaint.

Judge Johnston further informed Mascarena on June 16, 2015, that he must either pay the fee required for filing a lawsuit in federal court, or file a motion to proceed *in forma pauperis*, on or before July 10, 2015. (Doc. 1 at 25). Mascarena did neither.

Judge Johnston entered Findings and Recommendations in this matter on August 24, 2015. (Doc. 4). Judge Johnston recommended that this case be dismissed because Mascarena had failed to comply with the Court's Order of June 16, 2015. (Doc. 4 at 2). Mascarena did not file objections to Judge Johnston's Findings and Recommendations.

The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full. Dismissal of this action is appropriate given Mascarena's failure to comply with the Court's Order of June 16, 2015. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992).

Accordingly, IT IS ORDERED:

1. Plaintiff's Complaint (Doc. 2) is DISMISSED with prejudice.
2. The Clerk is directed to enter judgment accordingly.

DATED this 29th day of September, 2015.

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