

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

JASON BRYAN MARTIN,

Plaintiff,

vs.

LOGAN BRYCE,

Defendant.

CV 17-60-GF-BMM-JTJ

**ORDER**

Plaintiff Jason Martin (Martin) is a prisoner proceeding *pro se*. Martin filed a Complaint on June 26, 2017. (Doc. 2). Martin alleges constitutional claims under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Martin alleges that Deputy United States Marshal Logan Bryce violated his rights under the Fourth Amendment to the United States Constitution by using excessive force against him during his arrest on February 29, 2016. (Doc. 2 at 6).

United States Magistrate Judge John Johnston conducted an initial screening of Martin's Complaint under 28 U.S.C. § 1915. Judge Johnston issued Findings and Recommendations in this matter on January 10, 2018. (Doc. 9). Judge Johnston determined that the Complaint failed to state a claim upon which relief may be granted. (Doc. 9 at 12). Judge Johnston explained why the allegations in

the Complaint failed to state a cognizable claim for excessive use of force. (Doc. 9 at 6-12). Judge Johnston determined that the defects in the Complaint could not be cured by further amendment. (Doc. 9 at 12). Judge Johnston recommended that Martin's Complaint be dismissed for failure to state a claim. (Doc. 9 at 13). Martin 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.

Accordingly, IT IS ORDERED:

1. Martin's Complaint (Doc. 2) is DISMISSED with prejudice.
2. The filing of this action counts as one strike for failure to state a claim. 28 U.S.C. § 1915(g).
3. Any appeal of this decision would not be taken in good faith as Martin's claims lack arguable substance in law or fact.
4. The Clerk is directed to enter judgment accordingly.

DATED this 21st day of March, 2018.



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Brian Morris  
United States District Court Judge