

FILED

OCT 30 2008

PATRICK E. DUFFY, CLERK

By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

LLOYD SCOTT MAIER,)	CV 08-26-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MARTIN MAVRINAC, et al.,)	
)	
Defendants.)	
_____)	

Plaintiff Maier has filed a Complaint under 42 U.S.C. § 1983 raising constitutional free exercise and Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") claims as well as a claim under the Americans with Disabilities Act ("ADA"). Defendants James MacDonald and John Meckling have been required by the Court to respond only to Count I of the Complaint, which seeks declaratory and/or injunctive relief based the alleged violation of the Plaintiff's right to free exercise of his religion while he was incarcerated in Administrative Segregation at Crossroads Correctional Center.

Defendants MacDonald and Meckling have filed a motion to

dismiss Count One as moot because the Plaintiff is no longer housed at Crossroads Correctional Center.

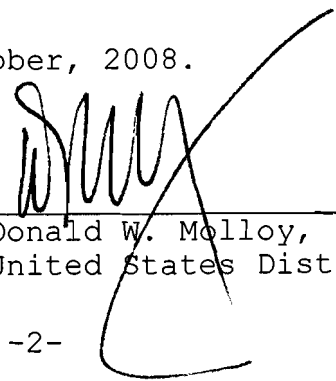
United States Magistrate Judge Keith Strong issued Findings and Recommendations in which he recommends that Count One be dismissed as moot. Judge Strong explained that when an inmate seeking injunctive relief from the practices of a correctional facility is transferred out of that facility, the claim is rendered moot, citing Johnson v. Moore, 948 F.2d 517, 519 (th Cir. 1991).

Plaintiff Maier did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I can find no clear error with Judge Strong's Findings and Recommendations and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that the Defendants' motion to dismiss (Doc. No. 26) is GRANTED, and Count One of the Complaint is DISMISSED as moot.

DATED this 30th day of October, 2008.



Donald W. Molloy, District Judge
United States District Court