

FILED
JUN 30 2010
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

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

WILLIAM LEROY JONES, JR.,)	CV 10-18-H-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
CITY OF HELENA DISTRICT)	
and CITY OF HELENA POLICE)	
DEPARTMENT,)	
)	
Defendants.)	
_____)	

Plaintiff Jones is proceeding pro se. He filed an action pursuant to 42 U.S.C. § 1983. United States Magistrate Judge Keith Strong entered Findings & Recommendations in this matter on June 7, 2010. He recommended dismissing

Jones' Amended Complaint. Plaintiff 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 reviews 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).

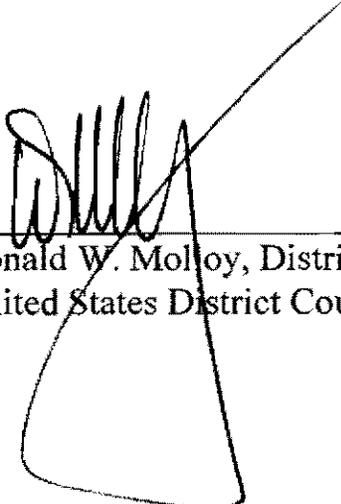
Jones' Amended Complaint alleges City of Helena police officers injured him when they arrested and jailed him. He states that he blames the store clerk who refused to sell him beer because he was intoxicated, and the clerk lied to the police that Jones was using a gun to threaten him. His Amended Complaint states that he does not blame the police, but the store clerk. Judge Strong found that Jones' Amended Complaint should be dismissed for failure to state a claim upon which relief may be granted because there is no plausible claim raised against the police officers. See Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009). Jones did not allege that the police used unreasonable force, and he conceded they were doing their job when they arrested him. Therefore, he has not stated a claim for relief against the officers, and Judge Strong recommended the Court dismiss his Amended Complaint. Upon review, I can find no clear error with Judge Strong's recommendations.

IT IS HEREBY ORDERED that Judge Strong's Findings and Recommendations (dkt #7) are adopted in full. Jones' Amended Complaint is DISMISSED WITH PREJUDICE.

The Clerk of Court is directed to close this matter and to enter judgment pursuant to Fed. R. Civ. P. 58.

The Clerk of Court is further directed to have the docket reflect that the Court certifies pursuant to Fed. R. App. P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The complaint is frivolous because it lacks arguable substance in law or fact.

Dated this 30 day of June, 2010.



Donald W. Molloy, District Judge
United States District Court