

FILED

APR 01 2011

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

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

WILLIAM DIAZ-WASSNER,)	CV 10-60-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MIKE FERRITER, MIKE)	
MAHONEY, DENISE DEYOTT,)	
)	
Defendants.)	
_____)	

United States Magistrate Judge Keith Strong conducted a prescreening process mandated by 42 U.S.C. § 1915 and found that the Defendants must make an appearance in this matter. Judge Strong deemed the Complaint filed on December 28, 2010. Judge Strong entered Findings and Recommendation on February 16, 2011 and recommended dismissing Plaintiff Diaz-Wassmer's Ninth Amendment claims and all claims regarding the prison's failure to follow its own policies. Further, Judge Strong determined that dismissal of all other claims is not appropriate at this time and Defendants must make an appearance in this matter.

The parties did not timely object to the Findings and Recommendation, and so have 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).

After a review of Judge Strong’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong’s Findings and Recommendation (dkt #7) are adopted in full. Plaintiff’s Ninth Amendment claims and all claims regarding the prison’s failure to follow its own policies are DISMISSED.

Dated this 1st day of April, 2011.



Donald W. Molloy, District Judge
United States District Court