

FILED

APR 20 2012

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

SHANNON DAVID BULLPLUME,)	CV 11-56-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MAILROOM SUPERVISOR)	
DENISE DEYOTT,)	
)	
Respondents.)	

United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter on March 8, 2012 and recommended dismissing Bullplume’s delayed legal mail claim.¹ Bullplume did not timely object to this recommendation, 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

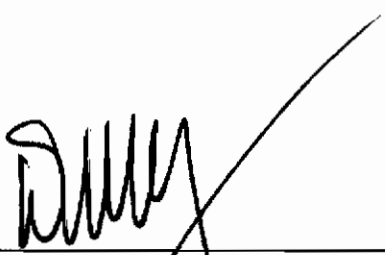
¹Bullplume’s other claims survive.

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).

Bullplume alleges he received three letters between four and 20 days after they were mailed. As found by Judge Strong in his January 3, 2012 Order (doc. 5), these temporary delays do not rise to the level of constitutional violations. Crofton v. Roe, 170 F.3d 957, 961 (9th Cir. 1999). And Bullplume does not appear to have exhausted his administrative remedies. Bullplume does not allege any new facts in his Amended Complaint to correct these errors. 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 #10) are adopted in full. Bullplume’s delayed mail claim is DISMISSED for failure to state claim.

Dated this 20th day of April 20, 2012.



Donald W. Molloy, District Judge
United States District Court