

FILED

FEB 03 2012

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

AL-KASEEM LITTLE,)	CV 11-60-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MYRON E. BEESON and MARK)	
LOCHRIE,)	
)	
Defendants.)	
_____)	

Plaintiff Al-Kaseem Little alleges some of his property was lost during transit from Montana State Prison to New Jersey State Prison and his letters to Defendants have not been answered. United States Magistrate Judge Keith Strong entered Findings and Recommendation on December 22, 2011, and recommended dismissing Little's complaint for failure to state a claim upon which relief may be granted. Plaintiff did not timely object to the Findings and 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 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).

Judge Strong found that Little cannot state a due process claim for deprivation of property. Additionally, he found this is not a defect which could be cured by the allegation of additional facts. 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 # 5) are adopted in full. Plaintiff’s Complaint (dkt #2) is DISMISSED for failure to state a claim upon which relief may be granted.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Little’s Complaint fails to state a claim upon which relief may be granted.

The Clerk of Court is 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 record makes plain the instant Complaint is frivolous as it lacks arguable substance in law or fact.

Dated this 3rd day of February, 2012.



Donald W. Molloy, District Judge
United States District Court

