

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

FILED

JUL 11 2012

PATRICK E. DUFFY, CLERK
By DEPUTY CLERK S. MISSOULA

FRANKLIN CORBIN)
EASTMAN,)
)
Plaintiff,)
v.)
)
ROSS SWANSON, et al.,)
)
Defendants.)
_____)

CV 11-73-H-DWM

ORDER

Franklin Eastman is a prisoner proceeding pro se. He raises several claims against personnel at the Montana State Prison. Those claims are: (1) interference with and reading legal and court mail, (2) denial of mental health care, (3) verbal and sexual harassment, (4) being labeled as a snitch, and (5) retaliation.

Magistrate Judge Strong recommends dismissing with prejudice Eastman's claims of opening court mail and verbal and sexual harassment, except as to Sgt. Gurstein. He also recommends that Mike Mahoney, Ross Swanson, Myron Beeson, Ben Bouley, Sgt. Strutzel, Cody Sentell, Paul Lucier, Dr. Shaack, and mailroom staff be dismissed. But he ordered that Eastman's claims of opening legal mail, interfering with obtaining mental health care, harassment by Sgt. Gurstein, and being labeled a snitch be served on Mazzone, Sgt. Moyotte, Sgt.

Fetters, Sgt. Miller, Sgt. Gurstein, Denice Deyott, and Sgt. Pasha.

Eastman is entitled to a de novo review of the specified findings or recommendations to which he timely objected. 28 U.S.C. § 636(b)(1). But the portions of Judge Strong's Findings and Recommendation not specifically objected to are reviewed for clear error. *McDonnell Douglas corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). General, conclusory objections do not warrant de novo review. *See Cox v. City of Charleston, S.C.*, 250 F. Supp. 2d 582, 585 (D. S.C. 2003).

Here, Eastman timely filed his objections to Judge Strong's Findings and Recommendation. But his objections are general and conclusory. He merely asserts that Lucier, Bouley, Sgt. Strutzel, Swanson, Beeson, and Dr. Shaack should not be dismissed.¹ His objections do not warrant a de novo review. The Court therefore reviews Judge Strong's Findings and Recommendation for clear error.

The Court finds no clear error in Judge Strong's Findings and Recommendation and adopts them in full. First, unlike legal mail, court mail is not protected. Second, Eastman's claims of threatening verbal and sexual harassment are not cognizable under 42 U.S.C. § 1983. *Freeman v. Arpaio*, 125 F.3d 732, 738 (9th Cir. 1997).

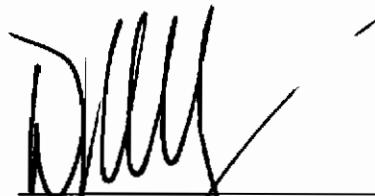
¹ Eastman concedes that Sentell and Mahoney should be dismissed.

IT IS ORDERED that the Court adopts Magistrate Judge Strong's Findings and Recommendation (doc. 12) in full.

IT IS FURTHER ORDERED that Frank Eastman's claims regarding the opening of court mail and threatening verbal and sexual harassment, except as to Sgt. Gurstein, are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Mike Mahoney, Ross Swanson, Myron Beeson, Ben Bouley, Carla Strutzel, Cody Sentell, Paul Lucier, Dr. Shaack, and the mailroom staff are dismissed.

Dated this 16th day of July 2012.



Donald W. Molloy, District Judge
United States District Court

