

**FILED**

**JAN 29 2013**

Clerk, U.S. District Court  
District Of Montana  
Missoula

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

WAYNE A. HUSSAR, II,	)	CV 12-45-H-DLC
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
LINDA NICHOLS (MSP License	)	
Addict Counselor),	)	
	)	
Defendant.	)	
_____	)	

United States Magistrate Judge Keith Strong entered Findings and Recommendations in this matter on November 28, 2012, recommending that the Complaint be dismissed for failure to state a claim under federal law. Plaintiff Wayne A. Hussar, II, filed objections and is entitled to de novo review of the specified findings and recommendations to which he objects. 28 U.S.C. § 636(b)(1). All other findings and recommendations are reviewed for clear error.

In his objections, Hussar merely restates the facts alleged in his Complaint and insists that he has stated a claim on which relief can be granted in federal court. He does not itemize the specific factual findings or recommendations to which he objects or set forth the authority he relies on to contradict Judge Strong's recommendation. Accordingly, he is only entitled to clear error review.

There is no clear error in Judge Strong's Findings and Recommendations. Because there is no constitutionally protected interest in prison education or rehabilitations classes, *Hernandez v. Johnston*, 833 F2d 1316, 1319 (9th Cir. 1987), Hussar has failed to state a claim that he has been deprived of due process. Hussar also alleges that he was slandered, but slander is not actionable under federal law. Because this case is in its earliest stages and the due process claim is dismissed, the Court declines to exercise supplemental jurisdiction over the potential slander claim.

IT IS ORDERED that Judge Strong's Findings and Recommendations (doc. 12) are ADOPTED in full.


IT IS FURTHER ORDERED that this matter is DISMISSED for failure to state a claim upon which relief may be granted.

The Clerk of Court is directed to close the case and enter judgment in favor of Defendant 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) based upon Mr. Hussar's failure to state a claim.

The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. Mr. Hussar's failure to state a claim is so clear no reasonable person could suppose an appeal would have merit. The record makes plain this action is frivolous as it lacks arguable substance in law or fact.

Dated this 29<sup>th</sup> day of January 2013.

  
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Dana L. Christensen, District Judge  
United States District Court