

FILED

SEP 24 2012

PATRICK E. DUFFY, CLERK
By _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

DAVID ALLAN GUINARD,)	CV 12-58-H-DLC-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
NIC SALOIS, LORI ADAMS, BRENT)	
GETTY, ALISON E. HOWARDS, DAVID)	
EDWARDS, KATHERINE R. CURTIS,)	
KYLE HINZMAN, and RANDY BLOCK,)	
)	
Defendants.)	
_____)	

United States Magistrate Judge Keith Strong entered Findings and Recommendation on August 1, 2012, and recommended dismissing Plaintiff David Allan Guinard's complaint because Guinard's allegations fail to state a claim for relief against any of the named Defendants. 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).

Guinard alleges he has been stripped of his rights of freedom and Defendants committed acts of libel and slander. Judge Strong found as follows: Guinard’s claim regarding Deputy Salois’s failure to give Miranda warnings fails to state a claim upon which relief may be granted; any claims challenging Guinard’s underlying conviction or probation revocation are barred by the Heck doctrine; Guinard cannot state a federal claim against Defendant Getty because there is no state action; and Defendants Curtis, Howard, Adams, Edwards, Hinzman, and Block are entitled to absolute immunity. Further, Judge Strong found that these are not defects which could be cured by amendment. 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 (doc. 7) are adopted in full. Plaintiff’s Complaint (doc. 2) is

DISMISSED.

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

IT IS FURTHER ORDERED that the docket shall 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 docket shall also reflect this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g).

DATED this 23rd day of September, 2012.



Dana L. Christensen, District Judge
United States District Court