

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

**FILED**  
JUL 19 2016  
Clerk, U.S. District Court  
District Of Montana  
Missoula

JOHN FREDERICK LEATHERS,

Plaintiff,

vs.

JON W. LARSON, et al.,

Defendants.

CV 16-43-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Order, Findings and Recommendations in this matter on June 20, 2016, recommending dismissal of Plaintiff John Leathers's ("Leathers") Complaint. Leathers failed to timely object to the Findings and Recommendations, and so waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). 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) (citations omitted).

Having reviewed the Findings and Recommendations, the Court finds no

clear error in Judge Johnston's conclusion that Leathers's Complaint should be dismissed because: (1) the majority of his claims are barred by the applicable statute of limitations; and (2) Judge Larson is immune from suit under the doctrine of judicial immunity.

Accordingly, IT IS ORDERED that:

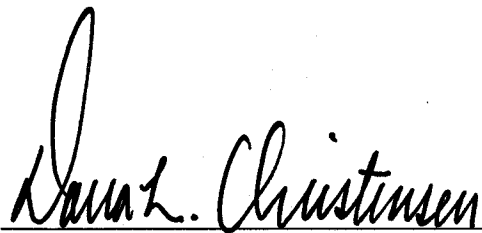
(1) Judge Johnston's Findings and Recommendations (Doc. 3) are ADOPTED IN FULL.

(2) This matter is DISMISSED WITH PREJUDICE. The Clerk of Court is directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.

(3) 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 Leathers's failure to file within the applicable statute of limitations.

(4) 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. No reasonable person could suppose an appeal would have merit. The record makes plain the instant Complaint lacks arguable substance in law or fact.

Dated this 19<sup>th</sup> day of July, 2016.

A handwritten signature in cursive script that reads "Dana L. Christensen". The signature is written in black ink and is positioned above a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court