FILED
APR 19 2017
Clerk, U S District Court
District Of Montana
Missoula

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

BENJAMIN KARL SMITH,	CV 16–0048–H–DLC–JTJ
Plaintiff,	
vs.	ORDER
SAM JOVANOVICH, SCOTT CLARK, RON MCDONALD, RYAN DURKIN, DENISE DEYOTT, JOE TURNER,	
Defendants.	

United States Magistrate Judge John T. Johnston entered findings and recommendations in this case on January 11, 2017, recommending that Plaintiff Benjamin Karl Smith's ("Smith") claims that Defendants Deyott, Clark, and Jovanovich withheld or destroyed his mail are sufficient to state a claim under the First Amendment and should proceed, but that all other claims against Defendants Turner, McDonald, and Durkin should be dismissed. No party objected to the findings and recommendations, and so they have waived the right to de novo review thereof. 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

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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.

Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 11) are ADOPTED IN FULL.

(1) Smith's claims regarding opening his legal mail outside of his presence are DISMISSED.

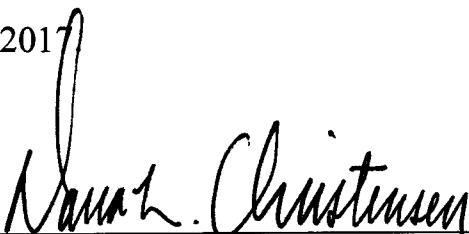(2) Smith's denial of access to the court claims are DISMISSED.

(3) Smith's Fourth Amendment claims are DISMISSED.

(4) Smith's Fourteenth Amendment due process claims are DISMISSED.

(5) Smith's Fourteenth Amendment equal protection claims are DISMISSED.

(6) Defendants Joe Turner, Ron McDonald, and Ryan Durkin are DISMISSED.

DATED this 19th day of April, 2017

Dana L. Christensen, Chief Judge
United States District Court