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

SEAN LANCE FOURNIER, Plaintiff, vs. LEROY KIRKGARD, et al., Defendants.	CV 16–105–H–DLC–JTJ ORDER

United States Magistrate Judge John T. Johnston entered his Findings and Recommendations on January 11, 2018, recommending Plaintiff Sean Lance Fournier's claims be dismissed without further leave to amend and with prejudice for failure to state a claim. (Doc. 10 at 4.) Plaintiff failed to timely object to the Findings and Recommendations and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *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).

After reviewing for clear error and finding none,

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 10) are ADOPTED IN FULL.

1. This matter is DISMISSED for failure to state a federal claim.

2. 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 ensure the docket reflects the Court's certification pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit as the record makes plain that the Complaint lacks arguable substance in law or fact.

4. The Clerk of Court is directed to ensure the docket reflects that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Plaintiff failed to state a claim upon which relief may be granted.

DATED this 1st day of March, 2018.

Dana L. Christensen, Chief Judge
United States District Court