

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

KEITH SCOTT STRECKER,

Plaintiff,

vs.

C/O SCHEETS, et al.,

Defendants.

CV 17-00049-H-DLC-JTJ

ORDER

Keith Strecker, a state prisoner proceeding without counsel filed a document entitled “Criminal Complaint.” The filing was liberally construed as a civil complaint. On May 3, 2017, the Clerk of Court mailed Mr. Strecker a Notice of Case Opening (Doc. 2) and a letter explaining that in order to institute a civil action he needed to pay the filing fee for this case or submit a motion to proceed in forma pauperis.

On May 12, 2017, Mr. Strecker sent a letter to the Court indicating that he intended to file a criminal complaint and he did not want to file a civil lawsuit. He asks that his original documents be returned. (Doc. 3.)

It is well-settled that “a private citizen lacks a judicially cognizable interest in the prosecution or non-prosecution of another.” *Linda R. S. v. Richard D.*, 410 U.S. 614, 619 (1973). As such, Mr. Strecker cannot request the Court to conduct a

criminal investigation or prosecute a defendant. *Graves-Bey v. City & Cnty. of San Francisco*, 669 Fed.Appx. 373 (9th Cir. 2016). He may only file a civil complaint in this court. There is no authority for the filing of a criminal complaint.

In order to institute a civil action in federal court, a plaintiff must either pay a filing fee of \$400.00 as required by 28 U.S.C. § 1914(a) or file a motion to proceed in forma pauperis under 28 U.S.C. § 1915. Here, no case has been initiated. Mr. Strecker did not intend to file a civil action and he has not paid the filing fee or submitted a motion to proceed in forma pauperis. Mr. Strecker's documents have not been filed, they were simply lodged with the Court.

ACCORDINGLY, the Clerk of Court is directed to close this matter and return Mr. Strecker's original filings.

DATED this 12th day of June 2017.

/s/ John Johnston
John Johnston
United States Magistrate Judge