

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

DOMENICK JAMES HOWARD,

Petitioner,

v.

MICHELLE JENIKE, LYODD DOPP,
BRIAN FISHER, and CHAD
LAWRENCE,

Defendants.

CV-17-88-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on April 9, 2018. (Doc. 9.) No party filed objections.

Given that no objections were filed, the Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full.

I.BACKGROUND

Plaintiff Domenick Howard (“Howard”) filed a Complaint on August 8, 2017. (Doc. 2.) Judge Johnston issued an Order on February 8, 2018, finding that Howard’s Complaint failed to state a claim upon which relief could be granted. (Doc. 8.) Judge Johnston’s Order provided Howard an opportunity to file an amended complaint on or before March 2, 2018. *Id.*

Judge Johnston’s Order noted additionally that the Federal Bureau of Prisons website reflected that Howard was incarcerated at the United States Penitentiary in Marion, Illinois as of February 8, 2018. (Doc. 8 at 2.) Howard had failed to update his address with the Court. *Id.* Judge Johnston advised Howard that failure to file a notice of change of address on or before March 9, 2018, would lead Judge Johnston to recommend this matter for dismissal pursuant to Local Rule 5.2. *Id.* Judge Johnston ordered the Clerk to serve Howard at USP Marion. *Id.*

Howard failed to file an amended complaint. Howard failed to file a notice of change of address.

II.DISCUSSION

Judge Johnston recommends dismissal without prejudice for Howard’s failure to notify the Court of his change of address. (Doc. 9 at 2.)

This District’s Local Rule 5.2(b) provides that the Court may dismiss a complaint without prejudice when a document has: (1) been returned as

undeliverable, and (2) the Court does not receive within 60 days of the return a written communication updating the party's address for service.

Nothing in the record indicates that Mr. Howard has filed a written notice informing the Court of his change of address.

III. ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston's Findings and Recommendations (Doc. 9) is **ADOPTED IN FULL**. Howard's Complaint is **DISMISSED WITHOUT PREJUDICE** pursuant to L.R. 5.2(b).

DATED this 14th day of May, 2018.



Brian Morris
United States District Court Judge