

FILED**MAR 12 2018**Clerk, U.S. Courts
District Of Montana
Missoula DivisionIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

STRAUSIE HART,

Plaintiff,

vs.

JENNIFER HUDSON, and TANYA
MURGEL,

Defendants.

CV 18-23-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered his Order and Findings and Recommendations on February 6, 2018, recommending to dismiss Plaintiff Strausie Hart's ("Hart") Complaint (Doc. 2) as barred by the statute of limitations. (Doc. 4.) Hart failed to timely object to the Findings and Recommendations, and so waived the 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, (Doc. 4), the Court finds no clear error in Judge Johnston's conclusion that Hart's Complaint should be dismissed because Hart failed to file the Complaint within the applicable statute of limitations. (Doc. 4 at 2.) The statute of limitations for a claim arising under 42 U.S.C. § 1983 is determined by the state statute of limitations for personal injury claims, *Wilson v. Garcia*, 471 U.S. 261, 276 (1985), which, in Montana, is three years after the action accrues, Mont. Code Ann. § 27-2-204(1). Because the events alleged in the Complaint occurred in September of 2014, the statute of limitations for the claims alleged against the Defendants in this matter concluded in September of 2017. Hart filed her Complaint on January 31, 2018. (Doc. 2.)

Accordingly, there being no clear error in Judge Johnston's Findings and Recommendation, IT IS ORDERED that:

(1) Judge Johnston's Findings and Recommendation (Doc. 4) is ADOPTED IN FULL.

(2) This matter is DISMISSED WITH PREJUDICE.

DATED this 12th day of March, 2018.



Dana L. Christensen, Chief Judge
United States District Court