

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

LANNY WADE BUEHL,

Plaintiffs,

v.

TIM FOX; ATTORNEY GENERAL
OF THE STATE OF MONTANA,

Defendants.

CV-18-152-H-BMM-JTJ

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

Plaintiff Buehl, a state prisoner proceeding in forma pauperis, filed his petition on December 20, 2018. (Doc. 1). Buehl alleges that his right to due process was violated during his state revocation proceeding. *Id.* at 4. Buehl asserts he was unable to confront his supervising parole officer at his revocation hearing regarding an allegation in the officer's report. *Id.* Buehl asked the Court for an immediate release to parole. *Id.* at 7.

Judge Johnston entered Findings and Recommendations on January 9, 2019, recommending that Buehl's petition should be denied. (Doc. 4 at 4). Judge Johnston determined that Buehl had not established a substantial and injurious effect from the alleged constitutional violation. *Id.* Judge Johnston notes that the undisputed facts show that Buehl admitted to several violations of his supervised release during the preliminary hearing, including ingesting methamphetamine, drinking alcohol, and smoking marijuana. *Id.* at 8. These admissions provide an adequate basis for probable cause even without considering the reporting allegation. *Id.*

No party filed objections to Judge Johnston's Findings and Recommendations. 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.

ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston's Findings and Recommendations (Doc. 4) are **ADOPTED IN FULL**.

IT IS ORDERED that Buehl's Petition (Doc. 1) is **DENIED**.

The Clerk of the Court is directed to enter, by separate document, a judgement in favor of Respondents.

The Court **CERTIFIES**, pursuant to Federal Rule of Appellate Procedure 24(a)(4)(B), that any appeal from this disposition is not to be taken in good faith.

DATED this 13th day of February, 2019.



Brian Morris
United States District Court Judge

