

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

ANTHONY EVANS,

Plaintiff,

vs.

OFFICER DEMESSEMAKER;
CARRIE WALSEAD; and KRISTY
COBBAN,

Defendants.

Cause no. CV 22-48-H-BMM-JTJ

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

United States Magistrate Judge John T. Johnston entered his Findings and Recommendations in this case on July 21, 2022. (Doc. 8.) Judge Johnston recommended that Plaintiff Anthony Evans's ("Evans") amended complaint (Doc. 6) should be DISMISSED without further leave to amend for failure to state a claim on which relief may be granted; that the docket should reflect that Evans's filing of this action counts as one strike under 28 U.S.C. § 1915(g); and that the District Court should CERTIFY that any appeal from its disposition would not be taken in good faith.

Evans moved to proceed in forma pauperis with this action under 42 U.S.C. § 1983 alleging violations of his civil rights on June 22, 2022. (Doc. 2.) The Court

granted his motion and gave him an opportunity to supplement his complaint with additional factual allegations. (Doc. 4.) Evans responded on June 27 and 29, 2022, by filing an amended complaint with a motion to amend and a brief in support of the amended pleading. (Doc. 6.) Judge Johnston found that Evans failed to allege facts fairly supporting an inference that any defendant acted “because of” his history of filing grievances. (Doc. 8 at 4.)

Judge Johnston additionally found that Evans failed to allege facts supporting an inference that any defendant’s actions did not reasonably advance a legitimate correctional goal. (*Id.*) Evans has not filed an objection to the 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). This Court finds no error in Magistrate Judge Johnston’s Findings and Recommendations and adopts them in full.

IT IS ORDERED that Judge Johnston’s Findings and Recommendations (Doc. 8) are **ADOPTED IN FULL**.

1. Evans’s Amended Complaint (Doc. 6) is **DISMISSED** with prejudice.
2. The Clerk of Court is directed to have the docket reflect that Evans’s filing of this action counts as one strike under 28 U.S.C. § 1915(g).

3. The District Court should CERTIFY that any appeal from its disposition would not be taken in good faith.
4. The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DATED this 9th day of August, 2022.



Brian Morris, Chief District Judge
United States District Court