

FILED
MAR 05 2009
PATRICK E. DUFFY, CLERK
By _____
DEPUTY CLERK, MISSOULA

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

DAVID W. SCONCE,)	CV 08-39-M-DWM-JCL
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
INTERSTATE COMMISSION FOR)	
ADULT OFFENDER SUPERVISION)	
and DAWN SPENCER, DIRECTOR,)	
)	
Defendants.)	
_____)	

Magistrate Judge Lynch issued Findings and Recommendation in this matter on February 10, 2009, recommending that this Court dismiss Plaintiff David W. Sconce's complaint and certify that an appeal of this decision would not be taken in good faith. Judge Lynch made this recommendation after noting that a

prior order of the Court required Sconce to either file an amended complaint in this action or notify the Court that he did not intend to file an amended complaint. Judge Lynch noted that Sconce did neither, and therefore had not cured the defect in his original complaint, which failed to give fair notice to Defendants as to the nature of the alleged civil rights violation. Judge Lynch concluded that Sconce had not cured the defect in his complaint and had failed to comply with a court order.

Sconce did not timely object to the Findings and Recommendation and so has waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). This Court reviews the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). 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). I can find no clear error with Judge Lynch’s recommendation.

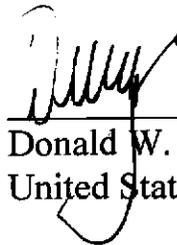
Accordingly,

IT IS HEREBY ORDERED that the Findings and Recommendation (dkt # 6) is adopted in full;

IT IS FURTHER ORDERED that the complaint is DISMISSED for failure to state a claim upon which relief may be granted;

IT IS FURTHER ORDERED that the clerk of court shall enter judgment consistent with this Order and pursuant to Fed. R. Civ. P. 58, and shall have the docket reflect that the Court certifies pursuant to Fed. R. App. P. 24(a)(3)(A) that an appeal from this decision would not be taken in good faith.

Dated this 5th day of March, 2009.



Donald W. Molloy, District Judge
United States District Court