

FILED

MAY 02 2013

Clerk, U.S. District Court
District Of Montana
Missoula

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

AARON JORGENSEN,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

CV 12-198-M-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on February 26, 2013, and recommended that this matter be dismissed with prejudice for failure to state a claim to relief that is plausible on its face. Plaintiff 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 will review 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).

Judge Lynch found Jorgensen’s allegations to be fantastic, delusional, irrational, and frivolous. He stated that Jorgensen failed to state a claim to relief that is plausible on its face. Further, he found that the defects in the claims are not curable by amendment. After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

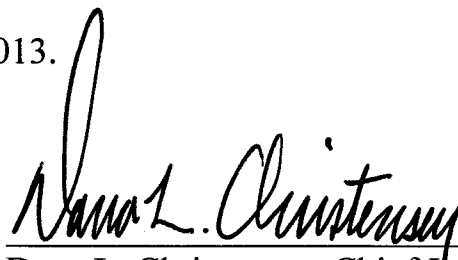
IT IS ORDERED that Judge Lynch’s Findings and Recommendation (doc. 4) are adopted in full. This matter is **DISMISSED WITH PREJUDICE**.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) based upon Jorgensen’s failure to state a claim.

The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The record makes plain the instant Complaint is frivolous as it lacks arguable substance in law or fact.

DATED this 2nd day of May 2013.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large initial "D".

Dana L. Christensen, Chief Judge
United States District Court