

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

FILED

OCT 30 2014

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

DOUGLAS JOSEPH CHYATTE,

CV 13-174-M-DWM-JCL

Plaintiff,

vs.

ORDER

MISSOULA COUNTY, et al.,

Defendants.

Plaintiff Douglas Chyatte, appearing pro se, alleges Defendants violated his rights under the Americans with Disabilities Act, the United States Constitution, and the Montana Constitution while he was incarcerated at the Missoula County Detention Facility. (Complaint, Doc. 2.) Pursuant to Magistrate Judge Jeremiah Lynch's January 28, 2014 Order, (Doc. 6), Chyatte filed an Amended Complaint, (Doc. 9). Judge Lynch entered Findings and Recommendations recommending that Defendants City of Missoula, Missoula County Sheriff's Department, Sheriff Carl Ibsen, Missoula County Detention Facility, Chief Detention Officer Foss, Sgt. Roney, and Jon Does 1-20, and Chyatte's Equal Protection, Fourth Amendment, and Eighth Amendment claims listed in the original complaint be dismissed. (Doc. 10.) Chyatte has not filed objections to Judge Lynch's Findings and

Recommendations.

The court reviews findings and recommendations on nondispositive motions for clear error. 28 U.S.C. § 636(b)(1)(A); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). On dispositive motions, the parties are entitled to *de novo* review of the specified findings or recommendations to which they object, 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp.*, 656 F.2d at 1313, and where there are no objections, the court is to give the level of consideration it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”). This Court reviews for clear error. 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).

The Court finds no clear error with Judge Lynch’s determination that Defendants City of Missoula, Missoula County Sheriff’s Department, Sheriff Carl Ibsen, Missoula County Detention Facility, Chief Detention Officer Foss, Sgt. Roney, and Jon Does 1–20 should be dismissed because Chyatte did not name them in the Amended Complaint. (*See* Doc. 9 at 3–4.) The Court also finds no

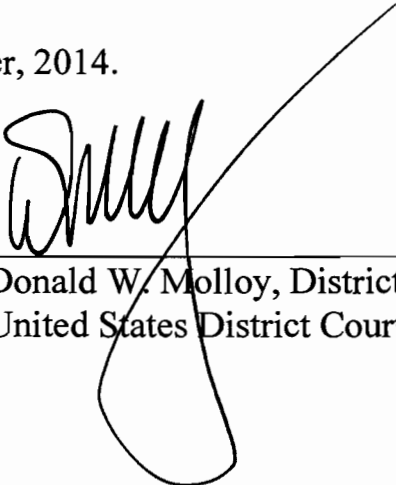
clear error with Judge Lynch's determination that Chyatte's Equal Protection, Fourth Amendment, and Eighth Amendment claims should be dismissed because Chyatte did not address them in the Amended Complaint and for the reasons set forth in Judge Lynch's January 28, 2014 Order. (See Docs. 6, 9.)

Accordingly, IT IS ORDERED that the Findings and Recommendations (Doc. 10) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendants City of Missoula, Missoula County Sheriff's Department, Sheriff Carl Ibsen, Missoula County Detention Facility, Chief Detention Officer Foss, Sgt. Roney, and Jon Does 1-20 as listed in the original complaint are DISMISSED.

IT IS FURTHER ORDERED that Chyatte's Equal Protection, Fourth Amendment, and Eighth Amendment claims as listed in the original complaint are DISMISSED.

DATED this 31 day of October, 2014.



Donald W. Molloy, District Judge
United States District Court