

FILED

MAR 02 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

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

JOHN CLAYTON SKINNER, SR.,

Plaintiff,

vs.

CITY OF MISSOULA, MISSOULA
POLICE DEPARTMENT, JOHN DOES
1-3, JANE DOE, SUPERVISORS DOE,
and CHIEF OF POLICE MARK
HORNER,

Defendants.

CV 17-70-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendations in this case on January 22, 2018, recommending that this action be dismissed for failure to state a claim. Plaintiff John Clayton Skinner, Sr. (“Skinner”) failed to timely object to the findings and recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

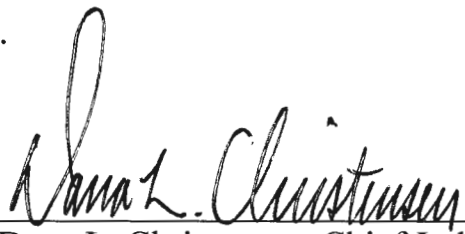
After reviewing the record and finding no clear error, this Court agrees with Judge Lynch that the Complaint, as currently pled, fails to state a federal claim upon which relief may be granted. Skinner was given an opportunity to file an

amended complaint, but Judge Lynch found that the Amended Complaint failed to cure the deficiencies.

Accordingly, IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 11) are ADOPTED IN FULL.

- (1) This matter is DISMISSED for failure to state a federal claim.
- (2) The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.
- (3) The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the instant Complaint lacks arguable substance in law or fact.
- (4) 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 Skinner's failure to state a claim.

DATED this 2nd day of March, 2018.



Dana L. Christensen, Chief Judge
United States District Court