

FILED

NOV 14 2017

Clerk, U.S. District Court
District Of Montana
MissoulaIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DANNY LEE WARNER,

Plaintiff,

vs.

CHUCK CURRY, JENNIFER ROOT,
JAMES DUSING, TAMMY BOWEN,
SGT. SCHUELEN, and CBM
MANAGED SERVICES,

Defendants.

CV 17-104-M-DLC-JCL

ORDER

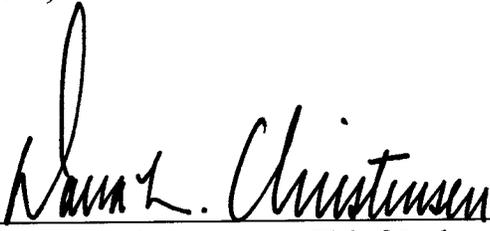
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in this case on August 29, 2017, recommending that Plaintiff Danny Lee Warner's ("Warner") motion for injunctive relief and motion for temporary restraining order and preliminary injunction be denied. Warner timely filed objections to the findings and recommendations. Consequently, Warner is entitled to de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir.

1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). 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) (citations omitted).

Judge Lynch concluded, and this Court agrees, that Warner’s motion for injunctive relief is without merit. Warner’s objection fails to present any new evidence and reiterates the same facts and arguments already made and properly rejected by Judge Lynch. A preliminary injunction will not be granted unless the plaintiff can establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). While Warner’s objection states that he is in desperate need of a pair of prescription eyeglasses, he does not present any evidence related to this need. (Doc. 9 at 1.) The attached grievance forms only pertain to his complaints of moldy food, rotten milk, and raw eggs, and these grievances were resolved by the Flathead County Detention Center. (Doc. 9-1.) Thus, Warner has not plausibly demonstrated the four factors for a Fourteenth Amendment claim for denial of medical treatment. *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2473 (2015). Consequently, no injunctive relief is warranted.

Accordingly, IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 7) are ADOPTED IN FULL. Warner's motion for injunctive relief as contained in his Complaint (Doc. 2 at 7-8) and motion for temporary restraining order and preliminary injunctive (Doc. 6) are DENIED.

DATED this 14th day of November, 2017.



Dana L. Christensen, Chief Judge
United States District Court