

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

|                         |   |                                  |
|-------------------------|---|----------------------------------|
| Mitchell David Holbach, | ) |                                  |
|                         | ) |                                  |
| Plaintiff,              | ) |                                  |
|                         | ) | <b>ORDER ADOPTING REPORT AND</b> |
| vs.                     | ) | <b>RECOMMENDATION</b>            |
|                         | ) |                                  |
| Nancy Murphy, et al.,   | ) |                                  |
|                         | ) | Case No. 4:08-cv-074             |
| Defendants.             | ) |                                  |

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On August 7, 2008, the plaintiff, Mitchell David Holbach, filed a a “PLRA packet.” See Docket No. 1. On September 11, 2008, Holbach filed a pro se complaint pursuant to 42 U.S.C. § 1983, along with an application to proceed *in forma pauperis*. See Docket No. 4. Magistrate Judge Charles S. Miller, Jr., conducted a review of the record and relevant case law and submitted a Report and Recommendation on September 24, 2008. See Docket No. 9. Judge Miller recommended that Holbach’s application to proceed *in forma pauperis* be denied and that Holbach’s complaint be dismissed without prejudice. Holbach was given ten (10) days to file an objection to the Report and Recommendation. Holbach filed an objection on October 7, 2008. See Docket No. 10.

Judge Miller found that Holbach’s allegations of conspiracy against ninety-five defendants are fantastic, fanciful, and frivolous; that his claims as they relate to the conduct of judicial officers and law enforcement are barred; that Holbach failed to plead sufficient facts to support the allegations to state a cognizable claim; and that Holbach’s many claims of deprivations of constitutional rights are also fantastic and frivolous. Holbach contends that he would benefit from the assistance of counsel and that he has stated a meritorious claim.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record and finds the Report and Recommendation to be persuasive. Accordingly, the

Court **ADOPTS** the Report and Recommendation (Docket No. 9) in its entirety, **DENIES** Holbach's application to proceed *in forma pauperis* (Docket No. 4) and **DISMISSES WITHOUT PREJUDICE** Holbach's complaint.

**IT IS SO ORDERED.**

Dated this 20th day of October, 2008.

*/s/ Daniel L. Hovland*

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Daniel L. Hovland, Chief Judge  
United States District Court