

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

LARRY DALE JOHNSON,

3:15-CV-00581-AC

Plaintiff,

ORDER

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

BROWN, Senior Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#120) on May 30, 2018, in which he recommends the Court deny in part Defendant's Motion (#102) to Dismiss the Third Amended Complaint on the ground of failure to state a claim; grant in part Defendant's Motion (#102) to Dismiss the Third Amended Complaint on the ground that Plaintiff fails to establish this Court has subject-matter jurisdiction; grant Plaintiff leave to file a Fourth Amended Complaint "to add allegations sufficient

to establish that [Plaintiff] timely submitted, and that the BOP timely received, his 2014 IACA Claim"; and deny Plaintiff's Motion (#116) to Supplement [the Third] Amended Complaint.

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. See *Dawson v. Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*).

Having reviewed the legal principles *de novo*, the Court adopts the Findings and Recommendation to the extent that the Court grants Defendant's Motion to Dismiss on the ground that Plaintiff has not established this Court has subject-matter jurisdiction, grants Plaintiff leave to file a Fourth Amended Complaint, and denies Plaintiff's Motion to Supplement [the Third] Amended Complaint.

#### **CONCLUSION**

The Court **ADOPTS in part** Magistrate Judge Acosta's Findings and Recommendation (#120). Specifically, the Court

1. **GRANTS** Defendant's Motion (#102) to Dismiss the Third Amended Complaint to the extent that the Court concludes Plaintiff has not established this Court has subject-matter jurisdiction;
2. **GRANTS** Plaintiff leave to file a Fourth Amended

Complaint **no later than August 9, 2018**, "to add allegations sufficient to establish that [Plaintiff] timely submitted, and that the BOP timely received, his 2014 IACA Claim"; and

3. **DENIES** Plaintiff's Motion (#116) to Supplement [the Third] Amended Complaint.

Because the Court concludes Plaintiff has not established this Court has subject-matter jurisdiction, the Court also concludes it is unclear that it has the authority to evaluate the sufficiency of Plaintiff's claim. The Court, therefore, **DECLINES** to adopt the remaining Findings and Recommendation as to whether Plaintiff failed to state a claim.

The Court advises Plaintiff that the Magistrate Judge will review Plaintiff's Fourth Amended Complaint and will recommend *sua sponte* dismissal of the Fourth Amended Complaint if it fails to comply with the May 30, 2018, Findings and Recommendation or this Court's Order. If Plaintiff fails to file a Fourth Amended Complaint by August 9, 2018, or if Plaintiff's Fourth Amended Complaint does not comply with the Findings and Recommendation or this Court's Order, the Court will dismiss this matter with

prejudice.

IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of July, 2018.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States Senior District Judge