

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

AARON SCOTT FEELEY,

3:17-cv-00649-PK

Plaintiff,

ORDER

v.

ALLAN R. EARL, et al.,

Defendants.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#7) on June 27, 2017, in which he recommends this Court dismiss this matter *sua sponte* with prejudice and deny as moot Plaintiff's Application (#1) for Leave to Proceed *In Forma Pauperis* and Plaintiff's Motion (#3) for Appointment of *Pro Bono* Counsel. Plaintiff filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

With respect to the recommendation to deny as moot Plaintiff's Application for Leave to Proceed *In Forma Pauperis*, the Court notes Plaintiff did not pay a filing fee. Individuals seeking to file a civil action in this Court must pay a filing fee unless they qualify for *in forma pauperis* status. *See* 28 U.S.C. §§ 1914(a), 1915(a)(1). In order to qualify for *in forma pauperis* status, a plaintiff must show he is unable to pay the filing fee. When a plaintiff establishes he is unable to pay the filing fee, the Court must also screen the complaint to determine whether it is frivolous or malicious, fails to state a claim, or seeks monetary relief from a defendant who is immune. *See* 28 U.S.C. § 1915(e)(2)(B). Plaintiff's Application establishes he is unable to pay the filing fee. Accordingly, the Court **GRANTS** Plaintiff's Application (#1) for Leave to Proceed *In Forma Pauperis*.

The Court, however, has also carefully considered Plaintiff's Objections and concludes they do not provide a basis to modify that portion of the Findings and Recommendation in

which the Magistrate Judge concludes this Court lacks subject-matter and personal jurisdiction. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in that portion of the Magistrate Judge's Findings and Recommendation. As the Magistrate Judge explained in his Findings and Recommendation the *Rooker-Feldman* doctrine prohibits federal courts from exercising *de facto* appellate review of final state court judgments. In addition, the Ninth Circuit has made clear that actions and claims subject to *Rooker-Feldman* are properly dismissed with prejudice. See, e.g., *Ismail v. County of Orange*, No. 14-56486, 2017 WL 2211266, at *3 (May 19, 2017) (Concluding the district court did not err when it dismissed with prejudice the plaintiff's claims that were barred by the *Rooker-Feldman* doctrine). Accordingly, the Court *sua sponte* **DISMISSES with prejudice** Plaintiff's Complaint for lack of jurisdiction.

CONCLUSION

The Court **ADOPTS as modified** Magistrate Judge Papak's Findings and Recommendation (#7). Accordingly, the Court **GRANTS** Plaintiff's Application (#1) for Leave to Proceed *In Forma Pauperis*, **DENIES as moot** Plaintiff's Motion (#3) for Appointment of *Pro Bono* Counsel, and *sua sponte* **DISMISSES with prejudice**

Plaintiff's Complaint for lack of jurisdiction.

IT IS SO ORDERED.

DATED this 25th day of July, 2017.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge