Reyna v. Weber et al Doc. 126

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION

LOREN REYNA, CIV 11-4044-RAL a/k/a LOREN TWO BULLS: Plaintiff, VS. DOUGLAS WEBER, Chief Warden ORDER ADOPTING REPORT AND Director of Prison Operations Warden; RECOMMENDATION AND * TIM REISCH, Cabinet Secretary, Secretary **DENYING CERTAIN MOTIONS** of Corrections, Department of Corrections; AND OBJECTIONS BOB DOOLEY, Warden of Mike Durfee State Prison: DEPARTMENT OF HUMAN SERVICES CORRECTIONAL MENTAL HEALTH CARE; DEPARTMENT OF HEALTH CORRECTIONAL HEALTH CARE; LEWIS & CLARK BEHAVIORAL HEALTH SERVICES; and DENNY KAEMINGK: Defendants.

Plaintiff, Loren Reyna, a/k/a Loren Two Bulls, filed a pro se civil rights lawsuit against Defendants. Reyna filed a number of motions and Defendants move for summary judgment. This Court referred Reyna's motion to Magistrate Judge John E. Simko pursuant to 28 U.S.C. § 636(b)(1)(B). Judge Simko recommends that Reyna's motions be denied and that the Defendants' motion for summary judgment be granted.

Under 28 U.S.C. § 636(b)(1), "when a party objects to the report and recommendation of a magistrate judge concerning a dispositive matter, '[a] judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." <u>United States v. Lothridge</u>, 324 F.3d 599, 600 (8th Cir. 2003)

(quoting 28 U.S.C. § 636(b)(1)); see also Fed. R. Civ. P. 72(b)(3) ("The district judge must

determine de novo any part of the magistrate judge's disposition that has been properly objected

to."). In order to trigger de novo review, objections must be specific and timely. Thompson v.

Nix, 897 F.2d 356, 358 (8th Cir. 1990). During the time for filing objections, Reyna did not file

objections to the report and recommendation, but filed a "notice of second interlocutory appeal."

Doc. 123. Reyna, after the time for filing objections filed a "Broad Objection to U.S. Magistrate's

Report and Recommendation." Doc. 124. This Court has considered these objections as if timely

filed. This Court has considered the case de novo and accepts the Report and Recommendation

in full and overrules Reyna's objections thereto. Therefore, it is hereby

ORDERED that the Court adopts the Report and Recommendation of Judge Simko, Doc.

116, in full. It is further

ORDERED that Reyna's motion for mental exam, Doc. 72, motion for evidentiary hearing,

Doc. 80, motion to compel, Doc. 100, motion to gather, Doc. 101, motion for order to show cause,

Doc. 112, motion to deny order to seal, Doc. 114, and motions for reconsideration, Doc. 121, Doc.

123, are denied. It is further

ORDERED that Reyna's "Notice of Appeal" of the magistrate judge order, Doc. 67, and

objections to the Report and Recommendation, Doc. 124, are overruled. It is finally

ORDERED that Defendants' motion for summary judgment, Doc. 75, is granted.

Dated July 23, 2012.

BY THE COURT:

ROBERTO A. LANĜE

UNITED STATES DISTRICT JUDGE

2