

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

CLAY ROSELLE,)	
)	
Plaintiff,)	Case No. CV07-515-E-EJL
)	
vs.)	ORDER
)	
STATE OF MONTANA, et al,)	
)	
Defendants.)	

Plaintiff Clay Roselle initiated this action by filing a Complaint *pro se* against numerous defendants, including the State of Montana, various attorneys, and several other defendants (collectively "Defendants"). On July 22, 2008, United States Magistrate Judge Larry M. Boyle issued a Report and Recommendation, recommending that the Court dismiss all Defendants.

Any party may challenge a magistrate judge's proposed recommendation regarding a dispositive motion by filing written objections within ten days after being served with a copy of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). The district court must then "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* The district court may accept, reject, or modify in whole or in part, the findings and recommendations made by the magistrate. *Id.*; see also Fed. R. Civ. P. 72(b).

Plaintiff has filed several documents that the Court will treat as objections to the magistrate judge's Report and Recommendation. (Docket nos. 31 & 32). Defendants have filed responses to the Plaintiff's objections. The matter is therefore ripe. Having fully reviewed the record, the Court finds that the facts and legal arguments are adequately presented in the parties' submissions and record. Accordingly, in the interest of avoiding further delay, and because the Court conclusively finds that the decisional process would not be significantly aided by oral argument, this matter shall

be decided on the record before this Court without oral argument.¹ See Dist. Idaho Loc. Civ. R. 7.1(d)(2)(ii).

Having reviewed all the Plaintiff's objections, the Court finds they are without merit and fail to refute the reasons for dismissal outlined by the magistrate judge. Specifically, there are multiple grounds for dismissal of Plaintiff's action including lack of personal jurisdiction, improper venue, lack of subject matter jurisdiction, and, with respect to Defendant State of Montana, Eleventh Amendment immunity. Therefore, after a *de novo* review, the Court will adopt the magistrate judge's Report and Recommendation. See Wang v. Masaitis, 416 F.3d 992, 1000 & n.13 (9th Cir. 2005).

ORDER

Having conducted a *de novo* review, this Court finds that Judge Boyle's Report and Recommendation is well founded in law and consistent with this Court's own view of the evidence in the record. Acting on the recommendations of Magistrate Judge Boyle, and this Court being fully advised in the premises, **IT IS HEREBY ORDERED** that the Report and Recommendation entered on July 22, 2008 (docket no. 29) shall be **INCORPORATED** by reference and **ADOPTED** in its entirety, and that therefore this case is **DISMISSED** in its entirety.

IT IS THEREFORE ORDERED that:

1) Defendants Davis, Warren & Hritsco, Hritsco, Knox and Lee's respective Motions to Dismiss (docket nos. 4, 12 & 13) are **GRANTED** for lack of personal jurisdiction and improper venue;

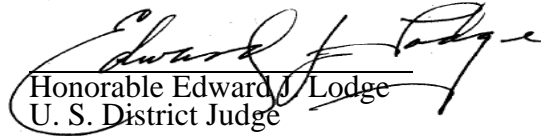
2) Defendant State of Montana's Motion to Dismiss (docket no. 8) is **GRANTED** pursuant to the Eleventh Amendment to the United States Constitution; and

3) Defendants Davis, Warren & Hritsco, Hritsco, Knox and State of Montana's respective Motions to Dismiss (docket nos. 4, 8 & 12) are **GRANTED** for lack of subject matter jurisdiction pursuant to the *Rooker-Feldman* doctrine.

¹ Plaintiff argues that because the adjudication of the motions to dismiss "is basically summary judgment," he has a right to a hearing on the matter. But that is incorrect. See e.g., Willis v. Pac. Maritime Ass'n, 244 F.3d 675, 684 n. 2 (9th Cir. 2001) (explaining that the judge has the discretion when considering a motion for summary judgment to determine whether or not to hold a hearing).



DATED: **August 20, 2008**


Honorable Edward J. Lodge
U. S. District Judge