
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DAVID WEBB,

Plaintiff,

v.

STATE OF UTAH et al.,

Defendants.

REPORT AND RECOMMENDATION

Case No. 2:16-cv-00017-JNP-PMW

District Judge Jill N. Parrish

Magistrate Judge Paul M. Warner

District Judge Jill N. Parrish referred this case to Magistrate Judge Paul M. Warner pursuant to 28 U.S.C. § 636(b)(1)(B).¹ The court permitted Plaintiff David Webb (“Plaintiff”) to proceed *in forma pauperis* (“IFP”) under 28 U.S.C. § 1915.² Pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), this court previously issued a report and recommendation reviewing the sufficiency of Plaintiff’s complaint.³ In that report, the court noted substantive defects in the operative complaint and recommended that the complaint be dismissed with leave to amend.⁴ The district court adopted the report and recommendation in full, dismissed the operative complaint, and gave Plaintiff “21 days to file an amended complaint, without naming any additional

¹ Docket no. 7.

² Docket no. 3.

³ Docket no. 10.

⁴ *Id.*

defendants, to correct the jurisdiction and other defects.”⁵ Plaintiff filed a second amended complaint on June 16, 2016.⁶

Having reviewed the second amended complaint, this court finds that Plaintiff failed to resolve the substantive defects discussed in the prior report and recommendation. Accordingly, **IT IS HEREBY RECOMMENDED** that Plaintiff’s second amended complaint be **DISMISSED**. Because Plaintiff was previously given leave to amend to address these defects, **IT IS RECOMMENDED** that the case be dismissed with prejudice.

* * * * *

Copies of this Report and Recommendation are being sent to Plaintiff, who is hereby notified of his right to object. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Plaintiff must file any objection to this Report and Recommendation within fourteen (14) days after being served with a copy of it. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Failure to object may constitute waiver of objections upon subsequent review.

IT IS SO ORDERED.

DATED this 15th day of September, 2016.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

⁵ Docket no. 14.

⁶ Docket no. 16.