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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

<p>CANDI-LEE WEEKS,</p> <p>Plaintiff,</p> <p>v.</p> <p>BRADLEY F. JOHNSON; BILL DIAL; KRISTI CURTIS; KEVIN CONWAY; SHANE ERICKSON; CHASE GARNER; CHUCK STEARNS; BRIDGER KELCH; JOHN MUHLFELD; BILL HILL; and BRIAN CARTER.</p> <p>Defendants.</p>	<p>Cause No: CV-16-161-DLC-JCL</p> <p>DEFENDANTS JOHNSON, CURTIS, CONWAY, ERICKSON, GARNER, KELCH, STEARNS AND MUHLFELD'S REPLY TO PLAINTIFF'S OBJECTIONS TO MAGISTRATE'S FINDINGS AND RECOMMENDATIONS</p>
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Defendants Bradley Johnson, Kristi Curtis, Kevin Conway, Shane Erickson, Chase Garner, Chuck Stearns, Bridger Kelch and John Muhlfeld ("City Defendants") hereby submit this reply to Plaintiff's Objections to the Magistrate's

Findings and Recommendation dated August 1, 2017.

## **INTRODUCTION**

Defendants incorporate by reference the arguments and authorities set forth in Defendants Johnson, Curtis, Conway, Erickson, Garner, Kelch, Stearns and Muhfeld's Motion to Dismiss and Reply Brief in Support. (Docs. 10 and 24).

Those arguments and authorities will not be repeated here. In addition, and for the reasons stated below, these Defendants respectfully submit the Magistrate's findings and recommendations are proper and supported by the evidence.

### **I. RESPONSES TO PLAINTIFF'S OBJECTIONS TO JUDICIAL IMMUNITY**

Plaintiff argues the Magistrate lacks authority to make findings. (Doc. 61 pp. 1-2). This argument is unsupported by the law and is in direct contradiction to statutory authority. "The Federal Magistrates Act, 28 U.S.C. §§ 631–39, governs the jurisdiction and authority of federal magistrates." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1118 (9th Cir. 2003) (en banc). The Act "provides that certain matters (for example, non-dispositive pretrial matters) may be referred to a magistrate judge for decision, while certain other matters (such as case-dispositive motions [and] petitions for writs of habeas corpus) may be referred only for evidentiary hearing, proposed findings, and recommendations." *Id.* (footnotes omitted).

28 U.S.C. § 636(b)(1)(B) expressly provides that “a judge may also designate a magistrate judge” to submit “findings of fact and recommendations for the disposition” of any items expressly excepted from the magistrate’s authority by 28 U.S.C. § 636(b)(1)(A).

Here, pursuant to the Act, the Magistrate issued findings and recommendations. Such actions were fully within the Magistrate’s authority and jurisdiction. Plaintiff’s argument is unsupported.

## **II. RESPONSES TO PLAINTIFF’S OBJECTIONS TO FACTUAL FINDINGS.**

1. Plaintiff first objects to the Magistrate’s finding of jurisdiction in regard to the application of judicial immunity. (Doc. 61 pp. 2-5).

Specifically the Magistrate stated:

Johnson, as a municipal court judge, has jurisdiction over all motor vehicle offenses, including the statutory requirement for all drivers to possess a license. Mont. Code Ann. §§ 3-6-103, 3-10-303, and 61-5-102. Therefore, Judge Johnson had jurisdiction over the traffic citation or citations issued to Weeks, and all of his conduct as alleged by Weeks was conduct committed while acting in his judicial capacity presiding over Weeks’ court appearances.

(Doc. 59 p. 10).

Plaintiff fails to provide any authority or factual basis regarding why Mont. Code Ann. §§ 3-6-103, and 61-5-102 are inapplicable or do not authorize jurisdiction over the traffic citations and Plaintiff’s conduct during her court

appearances. The findings of the Magistrate were correct and supported by statutory authority and evidence.

2. “The Magistrate claims that Candi-Lee:Weeks stated that: “No **License** [is] necessary to **drive** [an] Automobile on public roads.” (*Id.* at 4-5.)” (Doc. 61. P. 5).

Plaintiff next alleges she could not find this quotation. As cited by the Magistrate in Plaintiff’s Amended Complaint, she alleges and relies upon “US Supreme Court says No License necessary to drive”. (Doc. 21 pp. 4-5). The Magistrate’s synopsis of Plaintiff’s position is accurately represented.

Further, Plaintiff’s objection to the Magistrate’s finding is not material to the ruling.

3. “it says: “detained Weeks in her Ford Taurus **vehicle**” and “According to Weeks, Chief Dial attempted to break the window of her **vehicle**” Alleging that the Counter Plaintiff called the automobile a vehicle or the Magistrate is saying it's a vehicle.” (Doc. 61 p. 6).

Throughout this matter, Plaintiff contends the terms “vehicle” and “motor vehicle,” and “automobile” are not synonymous. (Doc. 61 p. 6 ¶¶ 2, 4; p. 7 ¶¶ 4-5; p. 8 ¶¶ 2-4; p. 9 ¶¶ 1-2; and p. 10 ¶ 1). Similarly, Plaintiff contends the terms “driving” and “traveling” are not synonymous. (Doc. 61 p. 6 ¶ 4; p. 7 ¶¶ 4-5; p. 8 ¶¶ 3-5; p. 9 ¶¶ 1-2; p. 10 ¶ 1). Plaintiff’s definitions of these terms are set forth in Doc. 61 at pages eight and nine. Notably, these definitions have no citation or authoritative context. They are not controlling under Montana Statutes or federal

precedent. What is controlling and what was properly relied upon by the Magistrate is Montana statutory law, including Mont. Code Ann. §§ 61-3-301(1), 3-10-303, and 61-5-102 and federal precedent, including *Miller v. Reed*, 176 F.3d 1202, 1205 (9<sup>th</sup> Cir. 1999) and *State v. Skurdal*, 767 P.2d 304, 306 (Mont. 1988). The Magistrate's findings are supported.

5. “Because Weeks is proceeding **pro se the Court** must construe her pleading liberally, and the pleading’ The Counter Plaintiff is **In Pro Per, in Sui Juris**, not Pro Se. **The Counter Plaintiff is the Court.**” (Doc. 61 at 6).

Plaintiff’s objection is unintelligible and in any event is not material to the ruling.

6. “Judge Johnson moves to dismiss **Weeks' claims** against him on the basis that he is immune from liability under the doctrine of judicial immunity.’ **Weeks has made claims. Claims only be made by living people, not by corporations or persons represented by pro se persons.**” (Doc. 61 at 6-7).

Plaintiff’s objection is unintelligible and is not material to the ruling.

Similarly, Plaintiff’s statement is also unintelligible and the legal precedent relied on by the City Defendants and cited by the Magistrate is authoritative.

“For *the reasons stated*, the Court agrees *Judge Johnson is immune from liability.*” The Counter Plaintiff is the court.’ *Judges are ‘absolutely immune for judicial acts.’ Simmons v. Sacramento County Superior Court, 318 F.3d 1156, 1161 (9th Cir. 2003). See also Mireles v. Waco, 502 U.S. 9, 11-12 (1991).*’ This is not part of the case law, it was not invoked by the Counter Plaintiff, and neither was the majority or all of the laws attempted to be used against the Counter Plaintiff in this case.”

(Doc. 61 at 6-7).

The Magistrate's findings are supported.

7. “‘The Court agrees.’ The Counter Plaintiff is the court. Even if the prosecutor violates a **Plaintiff's constitutional rights** during the commission of an act "intimately associated with the judicial phase of the criminal process," the prosecutor is entitled to absolute immunity. *Genzler v. Longanbach*, 410 F. 3d 630, 637 (9th Cir. 2005).’ In this case the Counter Plaintiff isn't merely exercising rights mentioned in the Constitution, but **Unalienable rights from God.**” (Doc. 61 at 7-8).

Plaintiff's objection is unpersuasive and unwarranted. The Magistrate correctly followed the U.S. Constitution and federal precedent interpreting the Constitution.

8. “‘Officer Conway stopped Weeks while she was operating a **motor vehicle**’ ‘not having a license plate on her **vehicle**’ The dash cam footage shows clearly that there was a license plate on the automobile. **The automobile is not a motor vehicle.**” (Doc. 61 at 8).

The automobile is a motor vehicle as defined under Montana law and as set forth previously. Plaintiff's remaining objection is based upon a literal reading of one sentence of the Magistrate's findings. When the Magistrates findings are fully read, it is clear the existence of a license plate is not what is at issue. Rather, what is at issue is whether the license plate was valid..

The Magistrate stated:

Montana law prohibits a person from operating a motor vehicle on the public highways unless the vehicle is properly registered and the proper license plate is displayed on the vehicle. Mont. Code Ann. § 61-3-301(1).

(emphasis added)(Doc. 58 p. 15).

The Magistrate's findings are supported.

9. "Federal Reserve Notes: The Constitution for the UNITED STATES defines money as Gold, and not as fiat currency. Currency is not Money. The only currency that has any value, is currency backed by Gold. Currency backed by the assets of the UNITED STATES, and the CITIZENS of the UNITED STATES, is not money, and is not backed by money." (Doc. 61 at 9).

Plaintiff fails to support her objection with any legal precedent. The Magistrate's findings regarding federal reserve notes are supported. *See United States v. Wangrud*, 533 F.2d 495, 495-96 (9<sup>th</sup> Cir. 1976) and (Doc. 59 p. 17).

10. "Weeks further alleges that on November 16, 2016, after Judge Johnson ordered Weeks to post a bond for her release Officer Garner informed or threatened Weeks that he would arrest her if she attempted to leave the courthouse without posting a bond. Officer Garner moves to dismiss this claim on the basis the allegations do not describe an unconstitutional act. The Court agrees.' Detaining one of the people, without producing a living human victim, is a crime. Holding one of the people for ransom, without producing a living human victim, is a crime. The Counter Plaintiff is the Court. (Doc. 61 at 10).

Plaintiff's objection is unintelligible. As stated by the Magistrate:

Weeks' allegations establish that Judge Johnson ordered her to post a bond. Officer Garner's subsequent conduct merely communicated his authority, in compliance with Judge Johnson's decision, to enforce the municipal court's imposition of a bond. Officer Garner's conduct in this regard did not violate any constitutional right, and the claim is subject to dismissal for failure to state a claim on which relief could be granted.

(Doc. 59 at 19-20).

The Magistrate relied on federal precedent holding that communicating authority in compliance with a judicial order was conduct protected under *Coverdell v. Dept. of Social and Health Services*, 834 F.2d 758, 764-65 (9<sup>th</sup> Cir. 1987). The Magistrate's findings are supported.

CONCLUSION

The Magistrate did not err in his findings and recommendations. He correctly concluded Defendants were entitled to dismissal.

Dated this 8<sup>th</sup> day of August, 2017.

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CERTIFICATE OF SERVICE

I certify that on this 8<sup>th</sup> day of August, 2017, a copy of the foregoing document was served on the following persons by the following means:

- CMF/ECF
- Hand delivery
- Mail
- Overnight delivery service
- Fax
- E-mail.

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