

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

RANDALL TETZNER, )  
Plaintiff, ) Case No. CV07-035-N-EJL  
vs. )  
KOOTENAI COUNTY, et al, ) ORDER ADOPTING REPORT  
Defendants. ) AND RECOMMENDATION  
\_\_\_\_\_  
}

On September 2, 2009, United States Magistrate Judge Larry M. Boyle issued a Report and Recommendation, recommending that Plaintiff's motion for Rule 60(b) relief be granted and the motion to proceed *in forma pauperis* be denied. Any party may challenge a Magistrate Judge's proposed recommendation regarding by filing written objections within ten days after being served with a copy of the magistrate's 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).

Neither side has filed objections to the report and recommendation. The Court has reviewed the report and recommendation in light of the parties briefing on the motions and finds that the Magistrate Judge identified the correct legal standards and properly applied those standards to the record. (Docket No. 22).

**ORDER**

Having conducted a *de novo* review of the Report and Recommendation, this Court finds that Magistrate 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 recommendation of Magistrate Judge Boyle, and this Court being fully advised in the premises, **IT IS HEREBY**

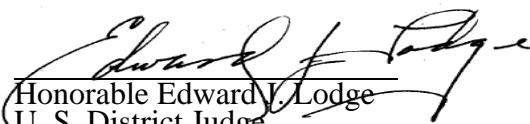
**ORDERED** that the Report and Recommendation entered on September 2, 2009, (Docket No. 22), should be, and is hereby, **INCORPORATED** by reference and **ADOPTED** in its entirety.

THEREFORE IT IS HEREBY ORDERED as follows:

- 1) The Motion for Rule 60(b) Relief (Dkt. No. 20) is **GRANTED**. The Order and Judgement dismissing this action (Dkt. Nos. 14, 15) are **VACATED AND SET ASIDE**. Plaintiff shall have 180 days from the date of this Order in which to pay the full filing fee of \$350.00. Failure to pay the filing fee within the 180 days period may result in dismissal of this action without further notice.
- 2) The Motion to Proceed *In Forma Pauperis* (Dkt. No. 21) is **DENIED**.
- 3) The Clerk of the Court is directed to dismiss the claims of Plaintiff Baby Doe if no attorney files a notice of appearance on his or her behalf within thirty-days of this Order.
- 4) The Plaintiff is **HEREBY ORDERED** to serve the Defendants in this lawsuit within 60 days of this Order as required by the Federal Rules of Civil Procedure.

DATED: **September 22, 2009**



  
Honorable Edward V. Lodge  
U. S. District Judge