

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

David Earl Wattleton,

Plaintiff,

v.

Civil No. 14-5003 (JNE/SER)
ORDER

Brian K. Davis, Assistant Director
Correctional Programs, Federal Bureau of
Prisons,

Defendant.

In a Report and Recommendation dated December 18, 2014, the Honorable Steven E. Rau, United States Magistrate Judge, recommended that Plaintiff's motion to proceed *in forma pauperis* be denied and that this action be summarily dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff objected, asserting 28 C.F.R. § 543.11(h) indicates that "it is the Warden's burden to prove that it is 'clearly impractical' to provide [Plaintiff] with access to technology to submit [Plaintiff's] legal documents electronically." But section 543.11(h) does not impose such a burden, and it does not require provision of the technology that Plaintiff seeks:

Unless clearly impractical, the Warden shall allow an inmate preparing legal documents to use a typewriter, or, if the inmate cannot type, to have another inmate type his documents. The Warden may allow the inmate to hire a public stenographer to type documents outside the institution, but the institution may not assume the expense of hiring the public stenographer. Staff shall advise the inmate of any delay in the typing of which they have received notice from the stenographer.

28 C.F.R. § 543.11(h).

Based on a de novo review of the record, the Court overrules Plaintiff's objection and accepts the recommendations to deny Plaintiff's motion to proceed *in forma pauperis* and to summarily dismiss this action under 28 U.S.C. § 1915(e)(2)(B)(ii). Therefore, IT IS ORDERED THAT:

1. Plaintiff's motion to proceed *in forma pauperis* [Docket No. 2] is DENIED.
2. This action is SUMMARILY DISMISSED under 28 U.S.C. § 1915(e)(2)(B)(ii).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 27, 2015

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge