

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

TODD KENNETH HOROB

Plaintiff,

vs.

UNITED STATES DISTRICT
COURT BILLINGS MT, et al.,

Defendants.

CV 14-57-BLG-DLC

ORDER

FILED

SEP 22 2014

Clerk, U.S. District Court
District Of Montana
Missoula

United States Magistrate Judge Caroline S. Ostby entered her Findings and Recommendation on June 6, 2014, recommending that Plaintiff Horob's motion to proceed in forma pauperis be denied because Horob has exceeded the three "strikes" allowed by the Prison Litigation Reform Act to a prisoner attempting to proceed in forma pauperis and that allegations in Horob's Complaint do not support a finding that Horob is in imminent danger of serious physical injury. Horob failed to timely object to the Findings and Recommendation, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court

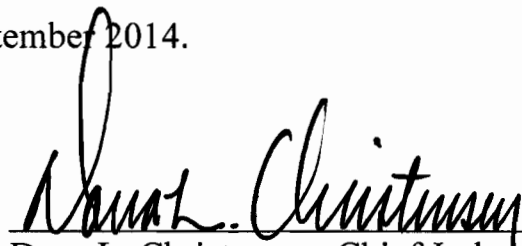
adopts Judge Ostby's findings and recommendation in full.

Horob moved to proceed in forma pauperis with this action under 28 U.S.C. § 1915. Horob is a state prisoner proceeding pro se. Horob has exceeded the three "strikes" allowed by the Prison Litigation Reform Act. His Complaint does not support a finding that he is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g). There is no clear error in Judge Ostby's recommendation that Horob's motion to proceed in forma pauperis should be denied.

IT IS ORDERED that Judge Ostby's Findings and Recommendation (Doc. 4) are ADOPTED IN FULL. The Clerk of Court shall enter judgment in favor Defendants and against Plaintiff.

IT IS FURTHER ORDERED that Horob's motion for discovery (Doc. 7) is DENIED AS MOOT. This case is CLOSED.

DATED this 22nd day of September 2014.



Dana L. Christensen, Chief Judge
United States District Court