

FILED
JUN 16 2010
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

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

CURTIS SULLIVAN,)	CV 10-26-H-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MSP, DOC MEDICAL, STATE OF)	
MONTANA, DR. ELIZABETH)	
RANTZ, and DR. TRISTAN)	
KOHUT,)	
)	
Defendants.)	
_____)	

Plaintiff Sullivan is proceeding pro se. He filed a motion to proceed in forma pauperis and a document that was construed as a civil complaint filed pursuant to 42 U.S.C. § 1983. United States Magistrate Judge Keith Strong entered Findings & Recommendations in this matter on May 24, 2010. Plaintiff timely objected and, therefore, he is entitled to de novo review of those portions of the Findings and Recommendation to which he objected. 28 U.S.C. § 636(b)(1). The portions of the Findings and Recommendation not specifically objected to

will be reviewed for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Strong recommended denying the motion to proceed in forma pauperis and closing this matter because Sullivan is subject to the three strikes rule in 28 U.S.C. § 1915(g). Judge Strong found that Sullivan should not be permitted to proceed unless he offers facts to show he is in “imminent danger of serious physical injury.” Id. Sullivan filed a document entitled “objection and motion for counsel,” which also states “this is a medical emergency.” His objection consists of a portion of a court document relating to another court case in which Sullivan was petitioner, a petition challenging his state conviction for sexual intercourse without consent, copies of medical records that are one or more years old, and a letter from his mother stating that he may live with her if he is paroled. While the caption of the objection states “this is a medical emergency,” Sullivan includes no facts to show he faces imminent danger of serious physical injury, nor does he argue why the three strikes rules should not apply to him. I agree with Judge Strong that 28 U.S.C. § 1915(g) applies and Sullivan’s motion to proceed in forma pauperis will be denied. Because Sullivan is barred from proceeding by 28 U.S.C. § 1915(g), his requests for counsel likewise have no merit.

I find no clear error in Judge Strong’s remaining findings and

recommendations. Accordingly,

IT IS HEREBY ORDERED that Judge Strong's Findings and Recommendation (dkt #5) are adopted in full. The motion to proceed in forma pauperis (dkt #1) is DENIED.

The Clerk is directed to terminate all pending motions and close this case.

The Clerk of Court is further directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal of this decision would have merit.

Dated this 16th day of June, 2010.



Donald W. Molloy, District Judge
United States District Court

