

FILED

JUN 22 2012

PATRICK E. DUFFY, CLERK
By _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

| | | |
|------------------------------|---|--------------------|
| LEWIS ELDON HUFFINE, |) | CV 12-38-H-DLC-RKS |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| MIKE MCGRATH, STEVE BULLOCK, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

On May 3, 2012, Plaintiff Lewis Eldon Huffine, an inmate at Montana State Prison, applied to proceed *in forma pauperis* with this action. He contends the defendants have violated his state and federal constitutional rights by failing to file his *pro se* pleadings in the courts of the State of Montana.

United States Magistrate Judge Keith Strong recommends denial of Plaintiff

Huffine's application to proceed *in forma pauperis* as barred by 28 U.S.C. § 1915(g), which prohibits *in forma pauperis* actions by a prisoner who has filed three or more previous groundless actions in federal court, unless the prisoner can show he is under imminent danger of serious physical injury. Judge Strong noted that Plaintiff Huffine has filed more than three frivolous and vexatious lawsuits in the federal courts, including two previous actions in this District. Because there is nothing in the proposed complaint to suggest that Plaintiff Huffine is in imminent danger of physical injury, Judge Strong recommends denial of the application to proceed *in forma pauperis*. Judge Strong further recommends that the Court decline to afford Plaintiff Huffine a period of time in which to pay the filing fee.


This Court reviews the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

The Court can find no clear error with Judge Strong's Findings and Recommendations (Doc. No. 4) and therefore adopts them in full.

Accordingly, IT IS HEREBY ORDERED that Plaintiff Huffine's application to proceed *in forma pauperis* (Doc. No. 3) is DENIED pursuant to 28

U.S.C. § 1915(g). The Clerk of Court is directed to close the case file.

DATED this 22nd day of June, 2012.



Dana L. Christensen, District Judge
United States District Court