

FILED

NOV 27 2012

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

HELENA DIVISION

MICHAEL ELLENBURG,)	CV 12-84-H-DLC-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MIKE MAHONEY, FIRST)	
JUDICIAL DISTRICT COURT, and)	
MONTANA SUPREME COURT,)	
)	
Defendants.)	
_____)	

United States Magistrate Judge Keith Strong entered Findings and Recommendation on September 11, 2012, and recommended denying Plaintiff Michael Ellenburg's request to proceed in forma pauperis and closing this action. Plaintiff did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This

Court will review 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).

Judge Strong found Ellenburg has been issued strikes for failure to state a claim pursuant to 28 U.S.C. § 1915(g) in three cases. Further, he found that the allegations in Ellenburg’s Complaint do not support a finding of “imminent danger of serious physical injury.” After a review of Judge Strong’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong’s Findings and Recommendation (doc. 2) are adopted in full. Plaintiff’s motion for leave to proceed in forma pauperis (doc. 1) is DENIED pursuant to 28 U.S.C. § 1915(g).

The Clerk is directed to close this case and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DATED this 27th day of November, 2012.



Dana L. Christensen, District Judge
United States District Court