

FILED

JUL 01 2013

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

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

VICTOR RANDOLPHE TURNER,
JR. II,

Plaintiff,

vs.

CINDI GRIMM and FRIENDS OF
JERRY,

Defendants.

CV 13-130-M-DWM-JCL

ORDER

Before the Court are the Findings and Recommendation of United States Magistrate Judge Jeremiah C. Lynch, (doc. 1), regarding a *pro se* complaint filed by Victor Randolphe Turner, Jr. II against Cindi Grimm and her company Friends of Jerry, (doc. 2). Judge Lynch notes that Turner is an inmate confined in Texas who has filed at least four civil actions dismissed as frivolous, malicious, or for failure to state a claim. (*See* doc. 2 at 1-2.) He has been denied permission to proceed *in forma pauperis* in at least six other federal district court cases. (*Id.*)

The Court reviews the findings and recommendations of a United States Magistrate Judge for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error is present only if the Court is left with a “definite and firm conviction that a mistake has been

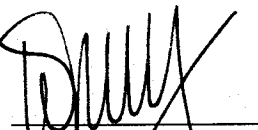
committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

After a review of Judge Lynch’s findings and recommendation, I find no clear error. Turner has exceeded the three strikes allowed by the Prison Litigation Reform Act as to a prisoner seeking to proceed *in forma pauperis* in a federal civil lawsuit. Accordingly, his case cannot proceed unless he demonstrates “imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). His complaint, even when construed liberally in his favor, does not support such a finding. Because of his abuse of the judicial system, Turner is not entitled to time in which to pay the filing fee.

Therefore, IT IS ORDERED that Judge Lynch’s findings and recommendations (doc. 2) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Plaintiff shall not be allowed to proceed *in forma pauperis*. The Clerk of Court is directed to close the case and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DATED this 15th day of July 2013.



Donald W. Molloy, District Judge
United States District Court