

FILED

IN THE UNITED STATES DISTRICT COURT FOR APR 28 2014

THE WESTERN DISTRICT OF OKLAHOMA
ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY wh DEPUTY

LAVERN BERRYHILL,)
)
Petitioner,)
)
vs.)
)
DEPT. OF JUSTICE et al.,)
)
Respondents.)

No. CIV-14-287-W

ORDER

On March 26, 2014, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this matter and recommended, inter alia, that the Motion for Leave to Proceed in Forma Pauperis filed by petitioner Lavern Berryhill be denied and that this action be dismissed unless Berryhill paid the filing fee of \$400.00 in full. Magistrate Judge Purcell further recommended, after conducting the preliminary screening required by title 28, section 1915A(a) of the United States Code, that Berryhill's Petition for Relief [Doc. 1] be dismissed as legally and factually frivolous under section 1915A(b)(1). Berryhill was advised of his right to object, see Doc. 6 at 5, and the matter now comes before the Court on Berryhill's Response to Magistrate's Report and Recommendation [Doc. 7]. Berryhill has also filed an affidavit regarding his right to proceed under title 28, section 1915(g) of the United State Code, see Doc. 8, as well as an Emergency Petition for Injunction and Mandamus. See Doc. 9.

Upon de novo review of the record, the Court finds no merit to Berryhill's request for injunctive or mandamus relief or his request for recusal of the undersigned. See Doc. 1 at 11. The Court further finds dispositive Magistrate Judge Purcell's recommendation that

this matter be dismissed under section 1915A(b)(1).

Accordingly, the Court

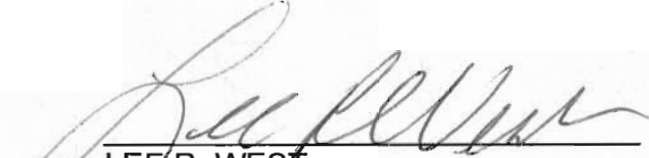
(1) ADOPTS the Report and Recommendation [Doc. 6] to the extent stated;¹

(2) deems MOOT all pending motions;

(3) pursuant to section 1915A(b)(1), DISMISSES this action as frivolous; and

(4) FINDS for the reasons articulated by the Honorable Robin J. Cauthron, United States District Judge for the Western District of Oklahoma, who also has been confronted with Berryhill's "offensive and/or abusive documents," Berryhill v. United States of America, No. CIV-225-C, slip op. at 1 (W.D. Okla. May 22, 2012), that because this case has been dismissed, any future papers (including any papers seeking reconsideration), other than those documents necessary to perfect an appeal, that are submitted by Berryhill in this case will not be filed by the Clerk of the Court, but will instead be returned by the Clerk to Berryhill. See id. at 2.

ENTERED this 28th day of April, 2014.



LEE R. WEST
UNITED STATES DISTRICT JUDGE

¹The Court agrees with Magistrate Judge Purcell that Berryhill is precluded by section 1915(g) from proceeding in forma pauperis in this action; however, rather than require Berryhill to pay the filing fee in full by a designated date and delay the Court's determination of the frivolous nature of this action, the Court finds dismissal under section 1915A(b)(1) is warranted this date.