

FILED

APR 30 2015

Clerk, U.S. District Court
District Of Montana
MissoulaIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

LENNY STANG,

Petitioner,

vs.

LEROY KIRKEGARD; TIM FOX,
Attorney General of the State of
Montana,

Respondents.

CV 14-128-BLG-DLC-CSO

ORDER

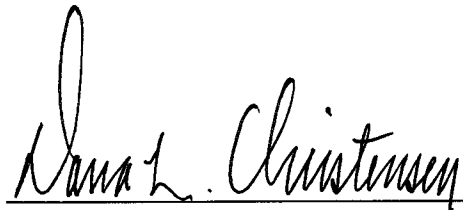
United States Magistrate Carolyn S. Ostby entered her findings and recommendations in this case on March 13, 2015, recommending dismissal of Petitioner Stang's petition for writ of habeas corpus under 28 U.S.C. § 2254. Stang failed to timely object to the findings and recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court adopts Judge Ostby's findings and recommendations in full.

Judge Ostby found, and this Court agrees, that Stang's habeas action was mooted by the credit he received on his probation violation sentence, which

amounted to the same number of days he alleges he was wrongfully imprisoned. Consequently, there is no constitutional violation in need of a remedy here. *See Spencer v. Lemna*, 523 U.S. 1, 7 (1998).

IT IS ORDERED that Judge Ostby's findings and recommendations (Doc. 8) are ADOPTED IN FULL. This action is DISMISSED AS MOOT. The Clerk of Court shall enter by separate document a judgment in favor of Respondents and against Petitioner Stang. A certificate of appealability is DENIED.

DATED this 30th day of April, 2015.



Dana L. Christensen, Chief Judge
United States District Court