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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF MONTANA**

**BUTTE DIVISION**

**JOHN BRANDON LACEY,** )  
 )  
 **Plaintiff,** )

**vs.** )

**HEAD JAILER, GALLATIN** )  
**COUNTY; HEAD JAILER,** )  
**BROADWATER COUNTY;** )  
**ATTORNEY GENERAL OF** )  
**THE STATE OF MONTANA,** )  
 )  
 **Defendants.** )

**CV-10-47-BU-RFC-CSO**

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**

On September 21, 2010, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 5*) as to the Rule 4 prescreening of what she construed to be Lacey's 28 U.S.C. § § 2241(c)(3) petition for writ of habeas corpus (*Doc. 1*). Lacey is a pre-trial detainee in state custody who asks this Court to enjoin the state court proceedings against him on the grounds that his

right to a speedy trial has been violated. Magistrate Judge Ostby concluded there are no extraordinary circumstances that would justify this court's interference in ongoing state court proceeding, citing *Younger v. Harris*, 401 U.S. 37 (1971). Magistrate Judge Ostby therefore recommends this Court dismiss the petition without prejudice, deny Lacey a certificate of appealability, and enter a judgment of dismissal.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). The time for objection has expired without objection from Lacey. This failure to object waives all objections to the findings of fact, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999), but this Court must still review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After a reviewing the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Lacey's petition (*Doc. 1*) is **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

DATED the 19<sup>th</sup> day of October 2010.

A handwritten signature in black ink, appearing to read "Richard F. Cebull", written over a horizontal line.

RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE