

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

FILED
JUL 20 2010
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

STEPHEN PATRICK HAFFEY,)	CV 09-175-M-DWM-JCL
)	
Petitioner,)	
)	
vs.)	ORDER
)	
SAM LAW; ATTORNEY GENERAL)	
OF THE STATE OF MONTANA,)	
)	
Respondents.)	
_____)	

Petitioner filed a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, on December 28, 2009. Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on June 15, 2010. Judge Lynch found that both parties have moved to dismiss this action and that dismissal is appropriate.

Petitioner Haffey did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews 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). I can find no clear error with Judge Lynch’s recommendation and therefore adopt it in full.

IT IS HEREBY ORDERED that Respondents’ Motion to Dismiss (dkt #12) is GRANTED and Petitioner’s Motion to Dismiss (dkt #14) is GRANTED. The Petition 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 this 25th day of July, 2010.



Donald W. Molloy, District Judge
United States District Court