

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 08-cv-00692-PAB-KLM

EARL CROWNHART,

Applicant,

v.

LARRY REID,

Respondent.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix filed on January 28, 2010 [Docket No. 253]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. See *also* 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on January 29, 2010. No party has objected to the Recommendation. Court mail addressed to Applicant has been returned as undeliverable since December 21, 2009. Although Applicant has filed pleadings since that time, he has not included a return address. The Recommendation was served at Applicant's last known address and was also returned as undeliverable. Moreover, Respondent served Applicant with a copy of his response to the Court's Minute Order of December 11, 2009, directing the parties to brief the issue of whether this habeas corpus petition was moot, and served it on an address where Respondent believed

Applicant may be. See Docket No. 239. However, Applicant has not filed any responsive pleading. Applicant has failed to inform the Court of his current mailing address and therefore bears responsibility for not receiving a copy of the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings"). In this matter, I have reviewed the Recommendation to satisfy myself that there is "no clear error on the face of the record."¹ See Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, I have concluded that the Recommendation is a correct application of the facts and the law. Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 253] is ACCEPTED.
2. The Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Docket No. 2] is DENIED, and this case is DISMISSED with prejudice.
3. There is no basis on which to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c).

¹This standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review. Fed. R. Civ. P. 72(b).

4. The Clerk shall send copies of this Order to Applicant at his last known address and also to:

Earl Crownhart, #113771
Mesa County Detention Center
P.O. Box 20000
Grand Junction, CO 81502

DATED March 22, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge