

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

GARY ALLEN EBECK,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 09-3371-CV-S-RED-H
)	
MARTY C. ANDERSON, Warden, United)	
States Medical Center,)	
Respondent.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition herein for a writ of habeas corpus and has submitted to the undersigned a report and recommendation that the petition for a writ of habeas corpus be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the Magistrate in which he continues to assert that respondent denied him placement in a Residential Re-entry Center [“RRC”] for more than six months, which demonstrates a failure to properly implement and apply the Second Chance Act of 2007.

Having fully reviewed the record de novo, the Court agrees with the Magistrate that the petition should be dismissed. Regardless of petitioner’s contentions, the Magistrate correctly found that a recommendation for twelve-month placement in an RRC is discretionary, and that petitioner

received individual consideration for such placement. Accordingly, he has failed to state a constitutional violation.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. It is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, considered and overruled. It is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr
Richard E. Dorr
United States District Judge

Date: January 13, 2010