

FILED

MAY 15 2014

Clerk, U.S. District Court
District Of Montana
Billings

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
BILLINGS DIVISION

RICHARD DEAN SCHAFF,

Petitioner,

vs.

LEROY KIRKEGARD;
ATTORNEY GENERAL OF THE
STATE OF MONTANA,

Respondents.

CV-14-53-BLG-SPW

ORDER

Petitioner Richard Dean Schaff filed a petition for writ of habeas corpus alleging the Montana Board of Pardons and Parole violated his constitutional rights by denying his application for parole on January 31, 2014. (Doc. 1). United States Magistrate Judge Carolyn Ostby entered Findings and Recommendations in this matter on April 24, 2014, recommending that Schaff's Petition be denied on the merits. (Doc. 3). Schaff timely filed his objection and is therefore entitled to de novo review of the specified findings and recommendations to which he objects. 28 U.S.C. § 636(b)(1).

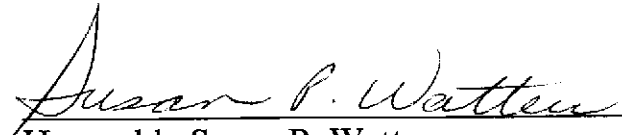
Schaff's objection reiterates the basic allegation made in his petition: that is,

the Montana Board of Pardons and Parole violated his constitutional rights by denying him parole. (Doc. 4). Montana Board of Pardons and Parole did nothing illegal or unconstitutional when it exercised its broad discretion to determine whether parole should be granted in Schaff's case, as explained in Judge Ostby's findings and recommendation. (Doc. 3 at 2). Judge Ostby correctly pointed out that all of the due process protections guaranteed to Schaff at the parole stage were present and the federal due process requirements were satisfied. (*Id.* at 3, citing *Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 442 U.S. 1, 16 (1979)). Schaff's allegations lack merit under the law and will be dismissed. After a *de novo* review of Judge Ostby's findings and recommendations,

IT IS HEREBY ORDERED:

1. Judge Ostby's Findings and Recommendations (Doc. 3) are ADOPTED in full.
2. Schaff's Petition is DISMISSED.
3. The Clerk of Court is directed to close the matter and enter judgment pursuant to Rule 58 of the Federal Rules of Procedure.
4. Pursuant to Rule 11(a) of the Rules Governing § 2254 Proceedings, a certificate of appealability is DENIED. Schaff makes no substantial showing that he was deprived of a constitutional right.

DATED this 15th day of May, 2014.


Honorable Susan P. Watters,
United States District Judge