

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

ROBERT LOUIS MEZA,

Plaintiff,

vs.

CAPTAIN BODINE; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Defendants.

CV 20-94-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on October 16, 2020. (Doc. 4.) The Magistrate recommended that Defendant Meza's Petition for Writ of Habeas Corpus be dismissed without prejudice. (*Id.* at 5).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendations. Federal Rule of Civil Procedure 6(d) extends that period by 3 days when a party is served by mail. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendations 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).


After reviewing the Findings and Recommendations, this Court does not find that the Magistrate committed clear error. Defendant Meza failed to exhaust the state court remedies available to him as required by law. *Baldwin v. Reese*, 541 U.S. 27, 29 (2004). Specifically, the Montana Supreme Court has not been afforded an opportunity to consider Meza’s claims. Therefore, a federal court cannot grant a writ of habeas corpus without exhaustion of these state court remedies. 28 U.S.C. § 2254(b)(1)(A).

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 4) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant Meza’s Petition is DISMISSED without prejudice.

The Clerk of Court is directed to enter judgment of dismissal. A certificate of appealability is denied.

DATED this 6th day of November, 2020.



SUSAN P. WATTERS
United States District Judge