

IN THE UNITED STATES DISTRICT COURT

2008 OCT 22 AM 11 32

FOR THE DISTRICT OF MONTANA

PATRICK E. DUFFY, CLERK

BY

DEPUTY CLERK

BILLINGS DIVISION

**FREEMAN WILLIAM STANTON,**

**Petitioner,**

**vs.**

**SAM LAW, Warden of Crossroads  
Correctional Center, et al.,**

**Respondents.**

**CV-08-57-BU -RFC- CSO**

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**

On September 30, 2008, United States Magistrate Judge Carolyn Ostby entered her Findings and Recommendation (*Doc. 7*) with respect to Stanton's 28 U.S.C. § 2254 petition for writ of habeas corpus (*Doc. 1*). Magistrate Judge Ostby recommends that the petition be dismissed for lack of jurisdiction as a second or subsequent petition.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1)<sup>1</sup>. In this matter, Stanton filed an objection on October 14, 2008. Stanton's objections require this Court to make a *de novo* determination of those portions of the Findings and Recommendations to which objection is made. 28 U.S.C. § 636(b)(1).

Stanton offers eleven separate objections, none of which address Magistrate Judge

<sup>1</sup>In prisoner cases, this Court extends the time to object to twenty days in order to take into account the Supreme Court's ruling in *Houston v. Lack*, 487 U.S. 266, 270-71 (1988), and the somewhat greater mailing time that is involved in sending documents into and out of a prison facility.

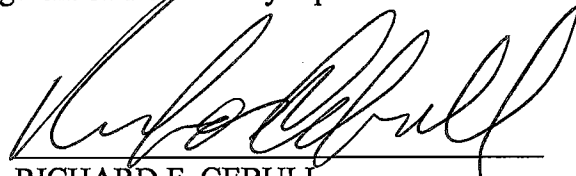
Ostby's conclusion that the instant § 2254 petition is a second or subsequent petition for which he has not been granted leave to file. After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Ostby are well grounded in law and fact and adopts in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that:

- (1) Stanton's Petition (*Doc. 1*) is **DISMISSED** for lack of jurisdiction;
- (2) Stanton's motion to proceed in forma pauperis (*Doc. 3*) is **DENIED**; and
- (3) A certificate of appealability is **DENIED**.

The Clerk of Court is directed to enter a judgment of dismissal by separate document.

DATED this 22<sup>nd</sup> day of October 2008.

  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE