

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

**FILED**

MAR 23 2015

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

DONALD GRIFFIN,

Petitioner,

vs.

LEROY KIRKEGARD; ATTORNEY  
GENERAL OF THE STATE OF  
MONTANA,

Respondents.

CV 14-07-BU-DWM-JCL

ORDER

This matter comes before this Court on Petitioner Donald Griffin's writ of habeas corpus under 28 U.S.C. § 2254. United States Magistrate Judge Lynch recommends dismissing the petition without prejudice. (Doc. 15.)

Griffin is entitled to *de novo* review of the specified findings or recommendations to which he objects. 28 U.S.C. § 636(b)(1). The Court reviews the Findings and Recommendations not specifically objected to 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). Griffin did not file any objections.

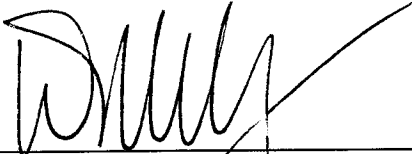
The Court finds no clear error with Judge Lynch's analysis. Griffin must return to state court before he can seek relief here. *Franklin v. Johnson*, 929 F.2d 460, 463-64 (9th Cir. 1991).

Accordingly, IT IS ORDERED that the Findings and Recommendation (Doc. 15) is ADOPTED IN FULL. Griffin's petition for writ of habeas corpus (Doc. 1) is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter by separate document a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

Dated this 23<sup>rd</sup> day of March, 2015.

  
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Donald W. Molloy, District Judge  
United States District Court