

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

FILED

NOV 16 2017

Clerk, U.S. Courts
District Of Montana
Missoula Division

DANNY SARTAIN,

Petitioner,

vs.

MICHAEL FLETCHER, ATTORNEY
GENERAL STATE OF MONTANA,

Respondents.

CV 17-75-BU-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations in this case on October 3, 2017, recommending that Petitioner Danny Sartain's ("Sartain") Motion for Postconviction DNA testing be denied with prejudice and this matter dismissed. (Doc. 3 at 3.) Sartain did not timely object to the Findings and Recommendations, and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). 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) (citations

omitted).

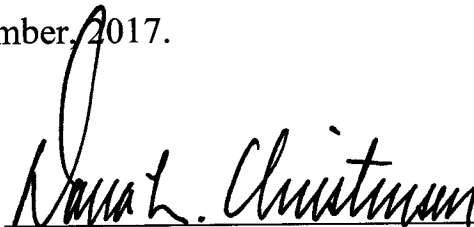
After reviewing the record and finding no clear error,

IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 3) are ADOPTED IN FULL. Sartain's Motion for Postconviction DNA Testing (Doc. 1) is DENIED with prejudice and this matter is DISMISSED.

IT IS FURTHER ORDERED that the Clerk of Court will enter by separate document a judgment in favor of Respondents and against Petitioner.

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

DATED this 16th day of November, 2017.



Dana L. Christensen, Chief Judge
United States District Court