

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

FILED
MAR 01 2018
Clerk, U.S. Courts
District Of Montana
Missoula Division

MELVIN RICHARD MULKEY,

Petitioner,

vs.

STATE OF MONTANA,

Respondent.

CV 17-93-BU-DLC-JCL

ORDER

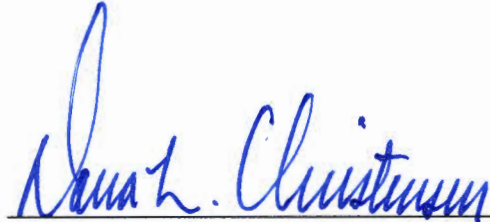
United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations on January 8, 2018, recommending Petitioner Melvin Richard Mulkey's habeas petition be dismissed as unexhausted. (Doc. 4 at 5.) Petitioner failed to timely object to the Findings and Recommendations and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *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 for clear error and finding none,

IT IS ORDERED that Judge Lynch's Order and Findings and Recommendations (Doc. 4) are ADOPTED IN FULL.

1. The Petition (Doc. 1) is DISMISSED as unexhausted.
2. The Clerk of Court is directed to enter by separate document a judgment in favor of Respondent and against Petitioner.
3. A certificate of appealability is DENIED.

DATED this 1st day of March, 2018.



Dana L. Christensen, Chief Judge
United States District Court