

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

NATIVIDAD BRATTAIN,

Petitioner,

vs.

JAMES SALMONSON,

Respondent.

CV-18-30-GF-BMM-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered his Amended Order and Findings and Recommendations (Doc. 6) in this case on April 18, 2018, recommending dismissal of Petitioner Natividad Brattain’s (“Brattain”) petition for writ of habeas corpus under 28 U.S.C. § 2254. Brattain timely filed an objection on May 3, 2018. (Doc. 7.) Consequently, Brattain is entitled to de novo review of those findings and recommendations to which he has specifically objected. 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). “A party makes a proper objection by identifying the parts of the magistrate’s disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.” *Montana Shooting Sports Ass’n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

Judge Johnston found, and this Court agrees, that this matter should be dismissed because Brattain has not filed an individual petition for habeas corpus relief as directed. Brattain is precluded from filing his request for habeas relief en masse with other petitioners. Brattain’s objection is entirely untethered to Judge Johnston’s Findings and Recommendations and merely rehashes the grievances aired in his petition and supplement. Thus, this Court reviews the record for clear error. L.R. 72.3(a); *see also McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Finding none,

IT IS ORDERED that Judge Johnston’s Findings and Recommendations (Doc. 6) are ADOPTED IN FULL. Brattain’s Petition (Doc. 2) is DISMISSED WITHOUT PREJUDICE.

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

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

DATED this 23rd day of July, 2018.



Brian Morris
United States District Court Judge