

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

**FILED**

**OCT 30 2017**

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

GEORGE ALLEN COLLINS,

Petitioner,

vs.

STATE OF MONTANA,

Respondent.

CV 17-87-H-DLC-JTJ

ORDER

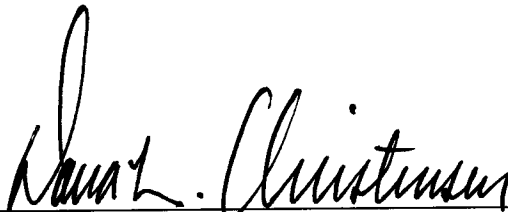
United States Magistrate Judge John T. Johnston entered his Findings and Recommendations in this case on September 13, 2017, recommending denial of Petitioner George Allen Collins' ("Collins") Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. Collins failed to timely object to the findings and recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston found, and this Court agrees, that Collins' Petition should be denied because Collins has failed to exhaust state court remedies. Collins' direct appeal proceedings are in the initial stage. Additionally, there are no

constitutional claims and the issue of exhaustion is not one upon which reasonable jurists could disagree as it does not present a close question of law. Hence, the Court will not issue a certificate of appealability. Accordingly,

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 6) are ADOPTED IN FULL. Collins' Petition (Doc. 1) is DISMISSED without prejudice. The Clerk of Court shall enter, by separate document, a judgment in favor of Respondent and against Petitioner. A certificate of appealability is DENIED.

DATED this 30<sup>th</sup> day of October, 2017.

  
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Dana L. Christensen, Chief Judge  
United States District Court