

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

RONALD D. GLICK,)
)
Petitioner,)
)
vs.)
)
MONTANA DEPARTMENT OF)
CORRECTIONS; ATTORNEY)
GENERAL STEVE BULLOCK,)
)
Respondents.)

Cause No. CV 10-103-M-DWM-JCL

RECOMMENDATION
AND ORDER

FILED

NOV 19 2010

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

On September 7, 2010, Petitioner Ronald Glick filed this action for writ of habeas corpus under 28 U.S.C. § 2254. Glick is proceeding pro se.

On September 22, 2010, regarding his motion to proceed in forma pauperis, Glick was advised:

Glick states that he receives \$674 per month in SSI disability payments and has about \$125 in a checking account. Mot. (doc. 3) at 2.

If, at some later stage of the action, Glick incurs expenses that may be paid by public funds, he may reapply for forma pauperis status. At this point, he can afford to pay the \$5.00 filing fee. He will be given an opportunity to do so. If he does not, the Court will recommend denial of forma pauperis status and the action may be immediately dismissed without prior notice to him.

Order to Petitioner (doc. 5) at 1-2. In the same document, Glick was ordered to show cause why three of the five claims in his petition should not be dismissed with prejudice as time-barred. He was also given an opportunity to allege additional facts to support his other two claims. Id. at 4-7.

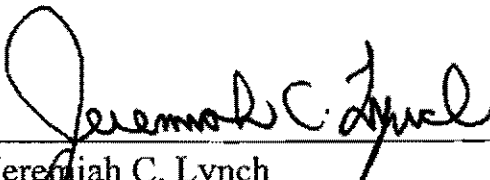
Glick responded to the Order on October 25, 2010. He neither paid the \$5.00 fee nor objected to the Court's finding that he could afford to pay it.

Glick is not entitled to a fourteen-day period to object to dismissal of this case based on his failure to pay the filing fee. Minetti v. Port of Seattle, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam). This Order will be entered directly upon endorsement by the District Court.

RECOMMENDATION

The following Order should be issued by Judge Molloy.

DATED this 17th day of November, 2010.



Jeremiah C. Lynch
United States Magistrate Judge

ORDER

1. The Recommendation of Judge Lynch is ADOPTED.
2. Glick's motion to proceed in forma pauperis (doc. 3) is DENIED.

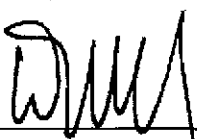
3. The Petition (doc. 1) is DISMISSED. Any fee received out of time will be returned to Glick.

4. A certificate of appealability is DENIED because Glick had both notice that he must pay the \$5.00 filing fee and an opportunity to object to the Magistrate Judge's finding that he could afford to pay it. He failed to pay it. Reasonable jurists could not disagree with this conclusion.

5. If Glick files a notice of appeal and/or moves to proceed in forma pauperis on appeal, the Clerk of Court shall immediately advise him and the court of appeals, pursuant to Fed. R. App. P. 24(a)(4)(B), that this Court CERTIFIES the appeal is not taken in good faith for the same reasons a certificate of appealability is denied.

6. No motions for reconsideration or rehearing will be entertained.

DATED this 19th day of November, 2010.



Donald W. Molloy
United States District Court

