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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

ERNEST BRENT WILCOCK,)	CV 11-152-M-DWM-JCL
)	
Petitioner,)	
)	
vs.)	ORDER
)	
MARTIN L. FRINK, Warden;)	
STATE OF MONTANA,)	
)	
Respondents.)	
_____)	

Petitioner Ernest Wilcock filed a petition for writ of habeas corpus with this court on November 17, 2011. (Dkt # 1.) On November 21, United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations. (Dkt # 5.) He recommended dismissing Wilcock’s petition for lack of jurisdiction under 28 U.S.C. § 2244(b)(2). Wilcock timely filed objections (dkt # 8) and is therefore entitled to de novo review of the record. 28 U.S.C. § 636 (b)(1).

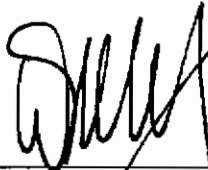
The instant petition is Wilcock’s second in this court with respect to his 1998 conviction for sexual intercourse without consent. His previous petition was denied on the merits on August 16, 2006. Because Wilcock is challenging the

same conviction previously addressed, this Court lacks jurisdiction to even consider his petition without an order authorizing it to do so from the Ninth Circuit Court of Appeals. 28 U.S.C. § 2244(b)(3)(A); Burton v. Stewart, 549 U.S. 147 (2007). Wilcock raises no arguments that address this clear and total bar to jurisdiction. Accordingly, the Court finds no basis for jurisdiction and adopts Judge Lynch's Findings and Recommendations in full.

IT IS HEREBY ORDERED:

1. Judge Lynch's Findings and Recommendation (dkt # 5) are adopted in full.
2. Wilcock's petition (dkt # 1) is **DISMISSED** for lack of federal jurisdiction.
4. The Clerk of Court is directed to enter a judgment of dismissal.
5. The Clerk of Court is further directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 4th day of January, 2012.



Donald W. Molloy, District Judge
United States District Court