

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

**FILED**

FEB 22 2013

Clerk, U.S. District Court  
District Of Montana  
Missoula

RON GLICK,

Plaintiff,

vs.

DONALD MOLLOY, JEREMIAH  
LYNCH, KEITH STRONG, UNITED  
STATES DISTRICT COURT -  
MONTANA DISTRICT, ELEVENTH  
JUDICIAL DISTRICT COURT OF  
MONTANA, PEG ALLISON,  
STUART STADLER, KATHERINE  
CURTIS, TED LYMPUS, MARA  
NEZATSKI, a/k/a Mara Pelton, TIM  
HARRIS, RAY EVERT, SPECIAL  
FRIENDS ADVOCACY PROGRAM,  
GAY MODRELL, GREGORY  
PASKELL, MONTANA SUPREME  
COURT, MONTANA OFFICE OF  
DISCIPLINARY COUNSEL, DAVE  
EDWARDS, HEIDI ULBRICHT, and  
DOES ONE through FIFTY,

Defendants.

CV 11-168-M-DWM-JCL

ORDER

Before the Court is Plaintiff Ron Glick's motion for declaratory relief. Glick is proceeding *pro se* in this matter. United States Magistrate Judge Jeremiah C. Lynch entered findings and a recommendation on December 5, 2012. No objection

has been filed to Judge Lynch's recommendation that Glick's motion be denied.

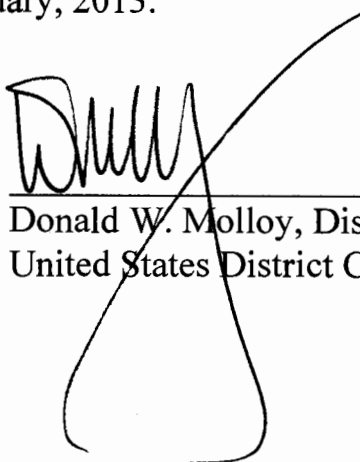
The Court reviews the findings and recommendations of a United States Magistrate Judge for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error is present only if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Plaintiff asserts claims under 18 U.S.C. § 1983. Glick's motion now before the Court seeks a declaratory ruling that his sentence in state court imposes only a term of incarceration with time suspended and expressly does not include probation or parole. Judge Lynch properly construes Glick's motion as a direct challenge to the validity of his state sentence. "[I]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254." *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Applying this principle to the present motion, Judge Lynch correctly concluded Plaintiff's claim for declaratory relief should be dismissed. After a review of Judge Lynch's findings and recommendation, I find

no clear error.

IT IS ORDERED Judge Lynch's findings and recommendation (doc. 45) are adopted in full. Glick's motion for declaratory relief (doc. 36) is DENIED.

DATED this 22<sup>nd</sup> day of February, 2013.



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Donald W. Molloy, District Judge  
United States District Court