



United States of America v. Tanner Eugene Osweiler

2011 | Cited 0 times | D. Montana | January 7, 2011

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 7, 2010. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). 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).

Judge Lynch recommended this Court accept Tanner Eugene Osweiler's guilty plea after Osweiler appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of Possession of Child Pornography in violation of 18 U.S.C. § 2252A(a)(5), as set forth in the Superseding Information filed against him.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 40) and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Tanner Eugene Osweiler's motion to change plea (dkt #30) is GRANTED.

