

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TYROME ELDER,

Petitioner,

v.

DECISION AND ORDER
15-CV-327A

HAROLD GRAHAM,

Respondent.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On March 14, 2017, Magistrate Judge McCarthy filed a Report and Recommendation (Dkt. No. 24), recommending that Petitioner Tyrome Elder's petition for habeas corpus relief (Dkt. No. 1) and his motion to stay these proceedings (Dkt. No. 23) be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, the petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 and Petitioner's motion for a stay of the proceedings are both denied. Because the Petitioner has failed to make a substantial showing of a denial of a constitutional right, a Certificate of Appealability will not be issued. Therefore, leave to appeal to the Court of Appeals as a poor person is denied.

The Clerk of Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: April 24, 2017