

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN MURPHY,
Petitioner,

v.

CIVIL ACTION NO. 17-10045-PBS

THOMAS TURCO, III,
Respondent.

**REPORT AND RECOMMENDATION
ON PETITION FOR WRIT OF HABEAS CORPUS (#1).**

KELLEY, U.S.M.J.

I. Introduction.

Pro se petitioner John Murphy filed a petition for writ of habeas corpus under 28 U.S.C.

§ 2254 against respondent Thomas Turco, III, Commissioner of the Department of Corrections (DOC), for relief from his May 2014 convictions of rape and assault and battery charges. (#1.)

Petitioner filed a memorandum of law and respondent filed an opposition. (##19, 21.) Before this court is respondent's motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c).

(#22.)

Petitioner raised two issues in his petition, one concerning the exclusion of evidence at his trial and one concerning first complaint evidence. As further explained below, the first issue was not exhausted in state court, and after the court explained the matter to petitioner at a hearing, the petitioner withdrew that issue. The remaining issue, which was exhausted in state

*1/29/19
I adopt the report
and recommendation and order
entry of judgment in favor of the respondent
John Turco*