Deberry v. Spitzer et al Doc. 34

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ERIC DEBERRY,

Petitioner,

- against -

ELLIOT SPITZER, New York State Attorney General, and DALE ARTIS, Superintendent,

Respondent.

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ORDER

05 CV 5286 (NG)(RML)

GERSHON, United States District Judge:

The Report and Recommendation ("R&R") of Magistrate Judge Robert M. Levy, dated February 17, 2011, to which no objections have been filed, has been reviewed for clear error. Having found no such error and noting that Judge Levy has fully dealt with every issue raised, the R&R is adopted in its entirety, and the petition for writ of habeas corpus is DENIED in its entirety.

Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253.

SO ORDERED.

s/NG

NINA GERSHON
United States District Judge

Dated: March 29, 2011
Brooklyn, New York

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