

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ NOV 13 2018 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

----- X
DANNY WILLIAMS,

Petitioner,

– against –

MICHAEL KIRKPATRICK,

Respondent.
----- X

MEMORANDUM DECISION AND ORDER

16-cv-06466 (AMD) (LB)

ANN M. DONNELLY, District Judge.

The *pro se* petitioner, Danny Williams, filed a petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254, challenging his 2012 New York conviction for Murder in the Second Degree (N.Y. Penal Law § 125.25[1]), Attempted Murder in the Second Degree (N.Y. Penal Law § 110/125.25[1]), and Assault in the First Degree (N.Y. Penal Law § 120.10[1]). The petitioner claims that the trial judge considered improper factors in sentencing him, rendering his sentence excessive. He also challenges his lawyer’s cross-examination of a trial witness.

I referred the petition to Magistrate Judge Lois Bloom for a Report and Recommendation (“R&R”). On September 24, 2018, Judge Bloom issued a thorough and well-reasoned R&R, recommending that I deny the petition in its entirety. The R&R was mailed to the petitioner on the same day. On October 9, 2018, I extended the time for the petitioner to file objections to the R&R an additional thirty days. Neither party has objected to the R&R and the time to do so has now passed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions

of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund. L.P.*, 823 F.Supp.2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks omitted).

I have reviewed the record and find no error in Judge Bloom’s recommendation that the petition be denied. Since the petitioner has failed to make a “substantial showing of the denial of a constitutional right,” a Certificate of Appealability shall not issue. 28 U.S.C. § 2253(c). The Clerk of the Court is directed to enter judgment and to close the case.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
November 14, 2018