

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JEFFREY L. PELKEY,

Petitioner,

v.

9:04-CV-0300  
(GTS/VEB)

R.A. GIRDICH,

Respondent.

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APPEARANCES:

OF COUNSEL:

JEFFREY L. PELKEY, 00-A-4448

Petitioner, *Pro Se*  
Eastern NY Correctional Facility  
Box 338  
Napanoch, NY 12458

HON. ANDREW M. CUOMO  
Attorney General for the State of New York  
Counsel for Respondent  
120 Broadway  
New York, NY 10271

PRISCILLA I. STEWARD, ESQ.  
Assistant Attorney General

HON. GLENN T. SUDDABY, United States District Judge

**DECISION and ORDER**

Jeffrey L. Pelkey ("Petitioner") brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254. (Dkt. No. 1.) By Report-Recommendation dated January 5, 2009, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that the petition be denied and dismissed, and that a certificate of appealability not be issued. (Dkt. No. 53.) Petitioner has not filed any objections to the Report-Recommendation within the time allotted. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); N.D.N.Y. L.R. 72.1(c); Fed. R. Civ. P. 6(a)(2), (d). Based upon a careful review of the entire file and the recommendations of Magistrate Judge

Bianchini, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. *See* 28 U.S.C. § 636(b)(1).

**ACCORDINGLY**, it is

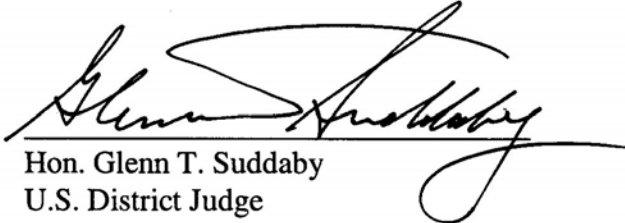
**ORDERED** that Magistrate Judge Bianchini's Report-Recommendation (Dkt. No. 53) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Petitioner's petition (Dkt. No. 1) is **DENIED** and **DISMISSED** in its entirety; and it is further

**ORDERED** that a Certificate of Appealability will not be issued; and it is further

**ORDERED** that the Clerk of the Court shall enter judgment accordingly and close the file.

Dated: January 28, 2009  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
U.S. District Judge