

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOSE LOPEZ,

Petitioner,

V.

9:05-CV-123

MICHAEL GIAMBRUNO,

Respondent.

THOMAS J. McAVOY,
Senior United States District Judge

DECISION & ORDER

This *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was referred to the Hon. Victor Bianchini, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.4.

No objections to the Report and Recommendation and Order dated January 3, 2008. After examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice. Petitioner has failed to keep the Court apprised of his current address as required by Local Rule 10.1 Accordingly, this Court adopts the Report and Recommendation for the reasons stated therein. This Court further agrees that a Certificate of Appealability is not warranted.

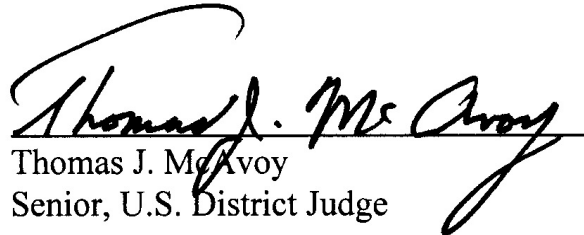
It is therefore

ORDERED that the petition for a writ of habeas corpus is **DENIED** and

DISMISSED. Further, the Court finds there is no substantial question presented for appellate review, and, therefore, a certificate of appealability is **DENIED.**

IT IS SO ORDERED.

Dated: February 6, 2008


Thomas J. McAvoy
Senior, U.S. District Judge