

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

SIVAD DAVIS,

Petitioner,

vs.

9:09-CV-0291 (NAM/DRH)

RAMON CUNNINGHAM,

Respondent.

APPEARANCES:

OF COUNSEL:

Sivad Davis
98-B-0943
Woodbourne Correctional Facility
Riverside Drive
Woodbourne, NY 12788
Petitioner, *pro se*

Hon. Andrew M. Cuomo
Attorney General for the State of New York
The Capitol
Albany, New York 12224-0341
Attorney for Defendant

Paul Tarr, Esq.
Assistant Attorney General

Norman A. Mordue, Chief U. S. District Judge

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed on the 22nd day of July 2010. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.

2. The petition for a writ of habeas corpus is denied. Petitioner has failed to make a substantial showing of a denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2); accordingly, no certificate of appealability shall issue.

3. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Date: August 13, 2010
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge

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