

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

DAVID PETERS,

Petitioner,

**9:10-cv-116
(GLS/DEP)**

v.

**SUPERINTENDENT of Sing Sing
Correctional Facility,**

Respondent.

APPEARANCES:

OF COUNSEL:

FOR THE PETITIONER:

David Peters
Pro Se
06-A-5776
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562

FOR THE RESPONDENT

HON. ERIC T. SCHNEIDERMAN
New York State Attorney General
New York Office
120 Broadway
New York, NY 10271

PRISCILLA I. STEWARD
Assistant Attorney General

**Gary L. Sharpe
Chief Judge**

MEMORANDUM-DECISION AND ORDER

I. Introduction

Petitioner *pro se* David Peters brings this Petition for a Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2254, alleging that his current confinement in state custody is in violation of his federal constitutional rights. (Pet., Dkt. No. 1.) In a Report-Recommendation and Order (R&R) filed October 19, 2011, Magistrate Judge David E. Peebles recommended that the Petition be denied and dismissed in all respects.¹ (See *generally* R&R, Dkt. No. 11.) Pending are Peters' objections to the R&R. (See Dkt. No. 14.) For the reasons that follow, the R&R is adopted in its entirety.

II. Standard of Review

Before entering final judgment, this court routinely reviews all report and recommendation orders in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v. N.Y. State Div. of Parole*, No. 04-cv-484, 2006 WL 149049, at *6-7 (N.D.N.Y. Jan. 18, 2006). In those cases where no party has filed an objection, or only a vague or general objection has been filed, this court reviews the findings and

¹ The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

recommendations of the magistrate judge for clear error. *See id.*

III. Discussion

Peters' "objections" consist of factual statements and legal citations which were already considered by Judge Peebles. (See Dkt. No. 14 at 3-7.) While Peters clearly believes the state courts erred, Judge Peebles found his assertions were either procedurally forfeited and/or lacked merit. (See R&R at 14-25.) As such, Peters' "objections" are insufficient to require a *de novo* review as there is no reference to a perceived error by Judge Peebles. Having found no clear error in the R&R, the court accepts and adopts Judge Peebles' R&R in its entirety.

IV. Conclusion

WHEREFORE, for the foregoing reasons, it is hereby

ORDERED that Magistrate Judge David E. Peebles' October 19, 2011 Report-Recommendation and Order (Dkt. No. 11) is **ADOPTED** in its entirety; and it is further

ORDERED that Peters' Petition (Dkt. No. 1) is **DENIED** and **DISMISSED** in all respects; and it is further

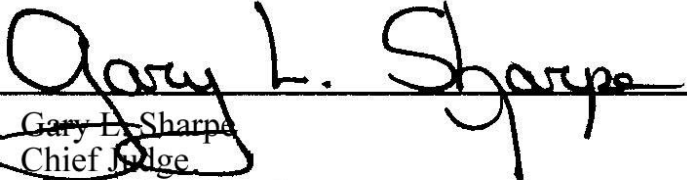
ORDERED that the court **DECLINES** to issue a certificate of appealability; and it is further

ORDERED that the Clerk close this case; and it is further

ORDERED that the Clerk provide a copy of this Memorandum-
Decision and Order to the parties by mail and certified mail.

IT IS SO ORDERED.

January 23, 2012
Albany, New York



Gary L. Sharpe
Chief Judge
U.S. District Court