

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

DONALD MACK DOVE,

Petitioner,

v.

**9:12-CV-738
(FJS/CFH)**

**WILLIAM LEE, Superintendent, Green
Haven Correctional Facility,**

Respondent.

APPEARANCES

OF COUNSEL

DONALD MACK DOVE
10-B-0378
Elmira Correctional Facility
P.O. Box 500
Elmira, New York 14902
Petitioner *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**
The Capitol
Albany, New York 12224-0341
Attorneys for Respondent

ALYSON J. GILL, AAG

SCULLIN, Senior Judge

ORDER

On May 3, 2012, Petitioner filed his petition for a writ of habeas corpus, contending that he was (1) denied a preliminary hearing for his assault charge, thereby also having been denied a fair trial; (2) convicted by a prejudiced jury because it was aware of his confinement status; and (3) denied effective assistance of standby counsel. *See* Dkt. No. 1. In a Report-Recommendation and Order dated December 12, 2013, Magistrate Judge Hummel found that Petitioner's claims

were barred from federal habeas review; and, therefore, he recommended that the Court deny Petitioner's petition and not issue a Certificate of Appealability with regard to any of Petitioner's claims. *See* Dkt. No. 29 at 12. Petitioner filed a conclusory objection to those recommendations, asserting that he was "object[ing] so that this Report Recommendation and Order c[ould] be reviewed by the Appellate." *See* Dkt. No. 30 at 1. He further requested that the Court issue a Certificate of Appealability. *See id.*

When the parties do not object to a magistrate judge's report-recommendation or when their objections are conclusory or general in nature, the court reviews the report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Hummel's December 12, 2013 Report-Recommendation and Order for clear error and manifest injustice; and, having found none, the Court hereby

ORDERS that Magistrate Judge Hummel's December 12, 2013 Report-Recommendation and Order, *see* Dkt. No. 29, is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Petitioner's motion for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED in its entirety**; and the Court further

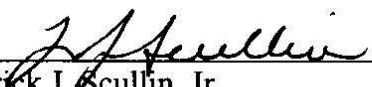
ORDERS that no Certificate of Appealability will issue with respect to any of Petitioner's claims because Petitioner has not made a "substantial showing of the denial of a constitutional

right" pursuant to 28 U.S.C. § 2253(c)(2). *See* 28 U.S.C. § 2253(c)(2) (providing that "[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right"); and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: March 2, 2015
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge