

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT BUTLER,

Petitioner,

-against-

9:13-CV-0375 (LEK/DEP)

BRUCE YELICH,

Respondent.

ORDER

This matter comes before the Court following a Report-Recommendation filed on August 19, 2013, by the Honorable David E. Peebles, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Northern District of New York Local Rule 72.3(c). Dkt. No. 10 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). “If no objections are filed . . . reviewing courts should review a report and recommendation for clear error.” Edwards v. Fischer, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); see also Cephass v. Nash, 328 F.3d 98, 107 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Farid v. Bouey, 554 F. Supp. 2d 301, 306 (N.D.N.Y. 2008).

No objections to the Report-Recommendation were filed in the allotted time period. After a thorough review of the Report-Recommendation and the record, the Court has determined that the Report-Recommendation is not subject to attack for clear error or manifest injustice.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 10) is **APPROVED** and **ADOPTED in its entirety**; and it is further

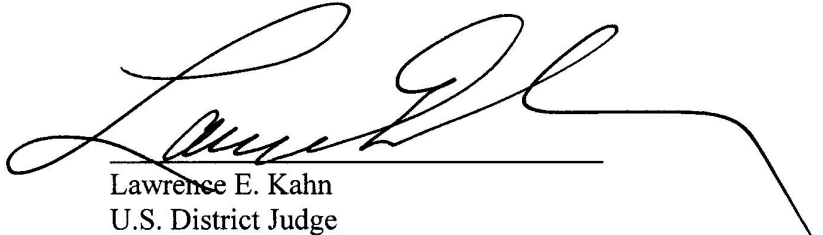
ORDERED, that Petitioner Robert Butler's Petition (Dkt. No. 1) for a writ of habeas corpus is **DENIED** and **DISMISSED as moot**; and it is further

ORDERED, that no certificate of appealability shall issue in this case because Petitioner has failed to make a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2);¹ and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order upon the parties to this action.

IT IS SO ORDERED.

DATED: November 27, 2013
Albany, New York



Lawrence E. Kahn
U.S. District Judge

¹ See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) ("[Section] 2253(c) permits the issuance of a [certificate of appealability] only where a petitioner has made a substantial showing of the denial of a constitutional right." (internal quotation marks omitted)).