

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANTHONY FUDGE,

Petitioner,

v.

9:13-CV-1370
(GTS/TWD)

D. LaCLAIR, Superintendent,

Respondent.

APPEARANCES:

ANTHONY FUDGE
Petitioner, *Pro Se*
1208 Hawley Avenue
Syracuse, New York 13203

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Respondent
120 Broadway
New York, New York 10271

GLENN T. SUDDABY, Chief United States District Judge

OF COUNSEL:

MICHELLE ELAINE MAEROV, ESQ.
Assistant Attorney General

DECISION and ORDER

Currently before the Court, in this *habeas corpus* proceeding filed by Anthony Fudge (“Petitioner”) pursuant to 28 U.S.C. § 2254, is the Report-Recommendation of United States Magistrate Judge Thérèse Wiley Dancks recommending that the Petition be denied and dismissed pursuant to 28 U.S.C. § 2253(c)(2), and that a certificate of appealability not issue. (Dkt. No. 19.) Petitioner has not filed an objection to the Report-Recommendation and the deadline by which to do so has expired. (See generally Docket Sheet.)

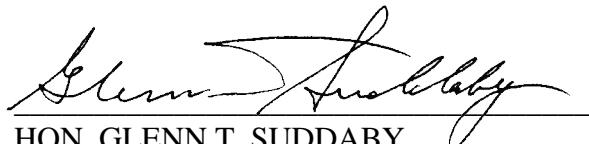
After carefully reviewing all of the papers in this action, including Magistrate Judge Dancks' thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation.¹ Magistrate Judge Dancks employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 19, Parts II through IV.) As a result, the Court accepts and adopts Magistrate Judge Dancks' Report-Recommendation in its entirety for the reasons stated therein.

ACCORDINGLY, it is hereby

ORDERED that Magistrate Judge Dancks' Report-Recommendation (Dkt. No. 19) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further
ORDERED that the Petition (Dkt. No. 1) in this matter is **DENIED** and **DISMISSED**; and it is further

ORDERED that a certificate of appealability not issue with respect to any of the claims set forth in the Petition, because Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2).

Dated: February 28, 2017
Syracuse, New York



HON. GLENN T. SUDDABY
Chief United States District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a "clear error" review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).