

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

TERENCE SANDY MCCRAY,

Petitioner,

vs.

MICHAEL CAPRA, Superintendent, Sing
Sing Correctional Facility,

Respondent.

No. 9:15-cv-01129-JKS

ORDER

[Re: Briefing Schedule on
Remaining Ineffective Assistance Claim]

On August 31, 2017, this Court issued a Memorandum Decision and Order concluding that the Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 by Terrence Sandy McCray, a New York state prisoner proceeding *pro se*, raised a colorable claim for relief with respect to his contention that the trial court erroneously and prejudicially failed to disclose portions of the victim's mental health records that bore on her credibility. Docket No. 46 at 33-34. The Court appointed counsel to submit additional briefing on that issue, and denied relief on the remainder of McCray's claims. *Id.* at 34. Appointed counsel submitted the supplemental brief on December 29, 2017. Docket No. 52.

Appointed counsel filed with the Court, at McCray's request, a letter from McCray raising his concerns that counsel may have a conflict of interest. Docket No. 53. The Court ordered appointed counsel to respond to the petitioner's contentions. Docket No. 56. Respondent subsequently requested that the response to McCray's supplemental memorandum of law be delayed until after the Court resolved the conflict of interest issue, Docket No. 57, and the Court vacated the deadlines for the response and the reply with respect to the supplemental memorandum of law, Docket No. 58.

Appointed counsel has now filed a letter from McCray indicating that McCray has abandoned his conflict of interest claim and would like appointed counsel's continued representation. Docket No. 61 at 3 ("At present there is no conflict of interest present because the issue at hand is the addressing of mental health record ONLY."). The deadline for McCray or Respondent to reply to appointed counsel's filing has now passed, and apparently neither party believes that a conflict of interest exists. Because the conflict of interest issue has been resolved, the Court will set new deadlines for the briefing on McCray's remaining claim.

IT IS THEREFORE ORDERED THAT Respondent shall have up to and including April 9, 2018, to file a response to the Supplemental Brief at Docket No. 52. McCray shall have up to and including April 23, 2018, to file a reply.

Dated: March 13, 2018.

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
Senior United States District Judge