

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILLIAM O'DANIEL,

Petitioner,

-v-

9:15-CV-1183
(DNH/DEP)

DANIEL MARTUSCELLO, JR., individually and
in his official capacity as the Superintendent of
the Coxsackie Correctional Facility, New York
State Department of Correctional Services,

Respondent.

APPEARANCES:

OFFICE OF BRUCE R. BRYAN
Attorney for Petitioner
333 East Onondaga Street
Suite 600
Syracuse, NY 13202

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

DAVID N. HURD
United States District Judge

OF COUNSEL:

BRUCE R. BRYAN, ESQ.

MATTHEW B. KELLER, ESQ.
Ass't Attorney General

DECISION and ORDER

Petitioner William O'Daniel brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 4, 2017, the Honorable David E. Peebles, United States Magistrate Judge, advised by Report-Recommendation that the petition be

denied but that a certificate of appealability be issued concerning petitioner's Sixth Amendment choice-of-counsel claim. Petitioner and respondent filed timely objections to the Report-Recommendation, and respondent submitted an additional though untimely response to petitioner's objections.

Based upon a de novo review of the portions of the Report-Recommendation to which petitioner and respondent objected, the Report-Recommendation is adopted in whole. See 28 U.S.C. § 636(b)(1); Rule 10, Rules Governing Section 2254 Cases.

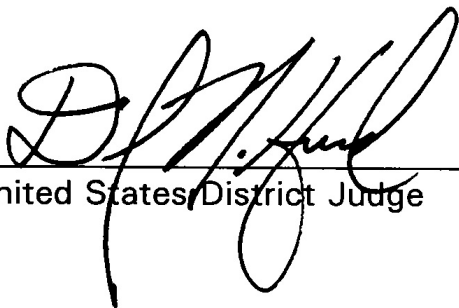
Therefore, it is

ORDERED that

1. The petition for a writ of habeas corpus is DENIED; and
2. A Certificate of Appealability is ISSUED concerning only petitioner's Sixth

Amendment choice-of-counsel claim.

IT IS SO ORDERED.



United States District Judge

Dated: March 19, 2018
Utica, New York.