UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DESMOND DEFREITAS,

Petitioner,

-against- 9:16-CV-0638 (LEK/ATB)

MICHAEL KIRKPATRICK,

Respondent.

ORDER

This matter comes before the Court following a Report-Recommendation filed on May 3, 2017, by the Honorable Andrew T. Baxter, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 31 ("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 made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008); see also Machicote v. Ercole, No. 06-CV-13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) ("[E]ven a pro se party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument."). "A [district] judge . . . may

accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b).

No objections were filed in the allotted time period. Docket. Thus, the Court has reviewed the Report-Recommendation for clear error and has found none.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 31) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that DeFreitas's Petition (Dkt. No. 1) is **DENIED and DISMISSED**; and it is further

ORDERED, that no certificate of appealability ("COA") shall issue in this case because DeFreitas has failed to make a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2), and any further request for a COA must be addressed to the Court of Appeals under Federal Rule of Appellate Procedure 22(b); and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: May 30, 2017
Albany, New York

Lawrence E. Kahn
U.S. District Judge