

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**McARTHUR DAVIS, a/k/a
McAUTHOR DAVIS,**

Petitioner,

vs.

**9:19-CV-1418
(TJM/ATB)**

J.E. HARPER, Superintendent,

Respondent.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred the instant petition for a writ of *habeas corpus*, brought pursuant to 28 U.S.C. § 2254, to Magistrate Judge Andrew T. Baxter for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Petitioner alleges that he suffered violations of his constitutional rights and seeks an order vacating his conviction after a guilty plea in the Supreme Court of Onondaga County, New York.

Magistrate Judge Baxter's Report-Recommendation, dkt. # 14, issued on July 16, 2020, recommends that the Court dismiss the petition and deny a certificate of appealability. Petitioner's conviction became final in 2013, Magistrate Baxter finds, and he did not file the instant *habeas corpus* petition within one year of that date, as required by federal law. Petitioner has also failed to point to any events that would toll the statute of

limitations. As such, Magistrate Judge Baxter concludes, Petitioner's claim is time-barred.

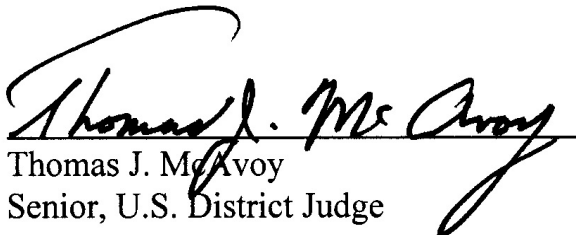
Petitioner did not object to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

The Report-Recommendation of Magistrate Judge Baxter, dkt. # 14, is hereby **ACCEPTED** and **ADOPTED**. Petitioner's petition for a writ of habeas corpus is hereby **DISMISSED**. As reasonable jurists could not disagree as to this outcome, the Court will decline to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: August 24, 2020


Thomas J. McAvoy
Senior, U.S. District Judge