

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DOUGLAS RIVERA,

Petitioner,

v.

9:20-CV-0865  
(GTS/ATB)

JOHN RICH, Super., Elmira Corr. Fac.,

Respondent.

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APPEARANCES:

DOUGLAS RIVERA, 15-B-2793

Petitioner, *Pro Se*

Marcy Correctional Facility

P.O. Box 3600

Marcy, New York 13403

HON. LETITIA A. JAMES

Attorney General for the State of New York

Counsel for Respondent

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MARGARET A. CIEPRISZ, ESQ.

Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this habeas corpus proceeding filed *pro se* by Douglas Rivera (“Petitioner”) pursuant to 28 U.S.C. § 2254, is United States Magistrate Judge Andrew T. Baxter’s Report-Recommendation recommending that the Petition be denied and dismissed, and that no certificate of appealability be issued. (Dkt. No. 41.) Petitioner has not filed an objection to the Report-Recommendation, and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.<sup>1</sup> Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Petitioner's Petition is denied and dismissed, and no certificate of appealability shall be issued.


**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 41) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Petitioner's Petition for a Writ of *Habeas Corpus* (Dkt. No. 1) is **DENIED** and **DISMISSED**.

**The Court declines to issue a certificate of appealability.**

Dated: May 23, 2022  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge

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<sup>1</sup> 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).