

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CHARLES BRANDON,

Petitioner,

v.

9:22-CV-1073  
(GTS/CFH)

SHERIFF, Monroe County,

Respondent.

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APPEARANCES:

CHARLES BRANDON  
Petitioner, *Pro Se*  
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Utica, New York 13502

HON. LETITIA A. JAMES  
Attorney General for the State of New York  
Counsel for Respondent  
28 Liberty Street  
New York, New York 10005

MARGARET E. CIEPRISZ, ESQ.  
Assistant Attorney General

GLENN T. SUDDABY, United States District Judge

**DECISION and ORDER**

Charles Brandon (“Petitioner”) filed his petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254 on October 17, 2022. (Dkt. No. 1.) On June 1, 2023, Defendant filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction. (Dkt. No. 17.) By Report-Recommendation dated October 27, 2023, the Honorable Christian F. Hummel, United States Magistrate Judge, recommended that Defendant’s motion to dismiss be granted, Petitioner’s Petition be denied, and that no certificate of appealability be issued. (Dkt. No. 19.) 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 Hummel's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.<sup>1</sup> Magistrate Judge Hummel 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, Defendant's motion to dismiss is granted, Petitioner's Petition is denied and dismissed, and no certificate of appealability shall be issued.

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 19) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendant's motion to dismiss (Dkt. No. 17) is **GRANTED**; and it is further

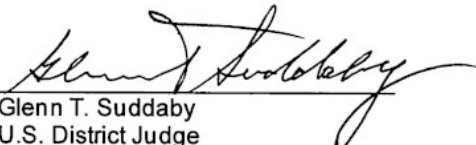
**ORDERED** that Petitioner's Petition for a Writ of *Habeas Corpus* (Dkt. No. 1) is **DENIED** and **DISMISSED**.

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

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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).

Dated: December 19, 2023  
Syracuse, New York



Glenn T. Suddaby  
U.S. District Judge