

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE BONILLA,

Petitioner,

-v-

No. 06 Civ. 4755 (LTS)(DF)

JOHN BURGE, Superintendent,

Respondent.

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MEMORANDUM OPINION AND ORDER ADOPTING
REPORT AND RECOMMENDATION

Petitioner Jose Bonilla (“Petitioner”) commenced this action on June 21, 2006, by filing a timely Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his conviction in Supreme Court, New York County, on one count of burglary in the second degree, as well as his sentence as a persistent violent felon to a prison term of twenty years to life. (Docket entry no. 1.) The case was assigned to the undersigned and referred to Magistrate Judge Debra Freeman. The Respondent submitted an opposition to the Petition, (docket entry nos. 7, 8), and Petitioner submitted a “traverse” in reply to the opposition, (docket entry no. 11). Judge Freeman issued a Report and Recommendation, dated September 29, 2009 (the “Report”), which recommends that the Petition should be denied and Petitioner should be denied a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2). (Docket entry no. 12.) Neither party has filed objections to the Report.

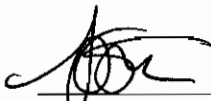
The Court has thoroughly reviewed the Petition, the Respondent’s opposition

submission, Petitioner's reply, and the Report. When reviewing the Report, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(C) (West 2008). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Service, Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (internal citations and quotation marks omitted). Judge Freeman's 28-page Report reflects a thorough review of the record and a diligent analysis of the applicable law. The Court is satisfied that the report contains no clear error. Accordingly, the Court adopts the Report in its entirety.

CONCLUSION

The Petition is hereby denied and the Petitioner is denied a certificate of appealability because he has not "made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Clerk of Court is hereby requested to enter judgment accordingly and close this case.

Dated: New York, New York
December 17, 2009



LAURA TAYLOR SWAIN
United States District Judge