

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL RODRIGUEZ,

Petitioner,

-against-

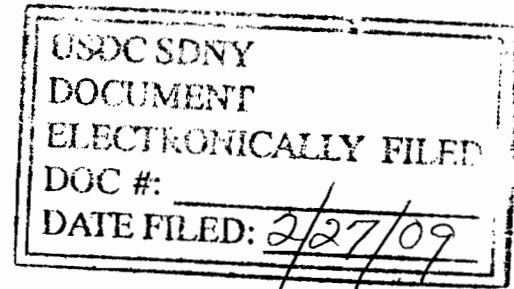
ROBERT ERCOLE, Superintendent,  
Greenhaven Correctional Facility,

Respondent.

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SHIRA A. SCHEINDLIN, U.S.D.J.:

**ORDER**

07 Civ. 415 (SAS) (MHD)



I have reviewed the Report and Recommendation (“R&R”) of United States Magistrate Judge Michael H. Dolinger, dated August 15, 2008 (Document #

Rodriguez v. Ercole

12), which recommends that the habeas petition brought under 28 U.S.C. § 2254

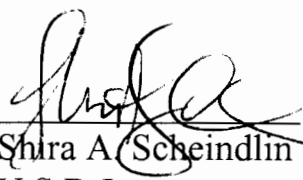
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be denied. Although petitioner was given the opportunity to file objections to the R&R, he failed to do so. *See* Document # 13. Based on my review, I hereby adopt the thorough and thoughtful R&R in full.

In accordance with the R&R, the instant habeas petition is dismissed with prejudice. Because petitioner’s failure to file objections precludes appellate review, this Court will not issue a certificate of appealability. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992) (“We have adopted the rule that failure to object timely to a report waives any

further judicial review of the report.”). The Clerk of the Court is directed to close this case.

SO ORDERED:

  
Shira A. Scheindlin  
U.S.D.J.

Dated: New York, New York  
February 26, 2009

**- Appearances -**

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**For Respondent:**

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