

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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CLARENCE WOOD,
a/k/a CLARENCE WADE,

Petitioner,

-against-

08 Civ. 8377 (DAB)
ADOPTION OF REPORT
AND RECOMMENDATION

JAMES CONWAY,

Respondent.
-----X

DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the May 12, 2010 Report and Recommendation of United States Magistrate Judge James L. Cott (the "Report"). The Report recommends that Petitioner Wood's petition for a writ of habeas corpus pursuant 28 U.S.C § 2254 be DISMISSED. (Report at 1, 14.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the

magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review..." Small, 892 F.2d at 16.

Despite being advised of the procedure for filing objections in Judge Cott's Report, and warned that failure to file objections would waive objections and preclude appellate review, (Report at 14-15), Petitioner has filed no objections to the Report.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge James L. Cott, dated May 12, 2010, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety.

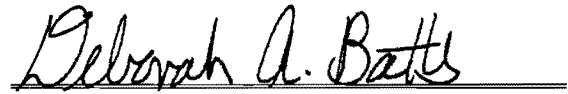
Because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see United States v. Perez, 129 F.3d 255, 260 (2d Cir. 1997). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369

U.S. 438, 8 L. Ed. 2d 21, 82 S. Ct. 917 (1962). The Clerk of the Court is directed to CLOSE the docket in this case.

SO ORDERED.

Dated: New York, New York

July 14, 2011

A handwritten signature in cursive script that reads "Deborah A. Batts". The signature is written in black ink and is positioned above a horizontal line.

Deborah A. Batts
United States District Judge