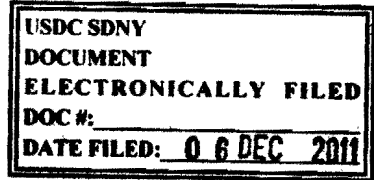


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
James C. Simms,

Petitioner,

-v-

Superintendent H.D. Graham

Respondent.
-----X

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:
:
09 Civ. 1059 (KBF)
:
MEMORANDUM OPINION
AND ORDER

KATHERINE B. FORREST, District Judge:

Pro se petitioner James C. Simms filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 on February 5, 2009. On February 13, 2009, the Court ordered the respondent to answer the petition and this action was referred to Magistrate Judge Paul E. Davidson for the preparation of a Report and Recommendation pursuant to 28 U.S.C. § 636(b). On October 8, 2010 Judge Davidson issued his Report and Recommendation to this Court.

DISCUSSION

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). When specific objections are made, "[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); United States v. Male Juvenile,

121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the report 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." King v. Greiner, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009) (citation omitted); see also Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

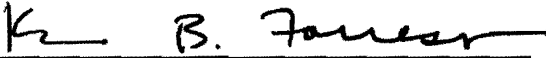
CONCLUSION

Careful review of the Report reveals that there is no facial error in its conclusions. The petition for habeas corpus is denied. The parties' failure to file written objections precludes appellate review of this decision. See Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008).

The Clerk of Court is directed to enter Judgment dismissing this action.

SO ORDERED:

Dated: New York, New York
December 6, 2011



KATHERINE B. FORREST
United States District Judge