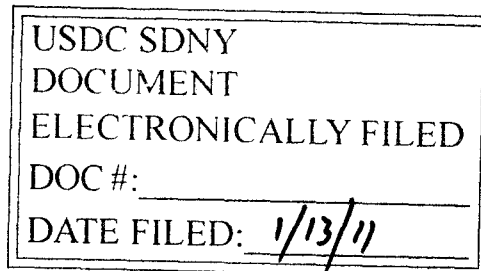


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
OSCAR SABLE,
:
 Plaintiff,
:
 -against-
:
SUPERINTENDENT DALE ARTUS,
:
 Defendant.
:
-----X

09 Civ. 7242 (WHP)(GWG)
ORDER



WILLIAM H. PAULEY III, District Judge:

Petitioner pro se Oscar Sable petitions for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his conviction in New York State court. This action was referred to Magistrate Judge Gabriel W. Gorenstein. On September 23, 2010, Magistrate Judge Gorenstein issued a report and recommendation (the “Report”) recommending that Sable’s petition be denied. By Memorandum Endorsement, this Court granted Sable’s request and extended the time to respond to the Report and Recommendation to November 12, 2010. However, that time has passed and neither party has filed any objections to the Report.

This Court has reviewed Magistrate Judge Gorenstein’s thorough and well-reasoned Report and finds that it is not facially erroneous. See 28 U.S.C. § 636(b)(1). Accordingly, this Court adopts the Report in its entirety and denies Sable’s petition. Because Sable has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not be issued. See 28 U.S.C. § 2253(c)(2).

In addition, this 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, 444 (1962). The Clerk of the Court is directed to terminate all pending motions and mark this case as closed.

Dated: January 13, 2011
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

Copy mailed to:

Oscar Sable
04-A-5119
Clinton C.F.
P.O. Box 2001
Dannemore, NY 12929
Plaintiff Pro Se

Magistrate Judge Gabriel W. Gorenstein