

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LENELL ROBINSON,

Petitioner

DECISION AND ORDER

05-CV-6199L

v.

DALE ARTUS, Superintendent,

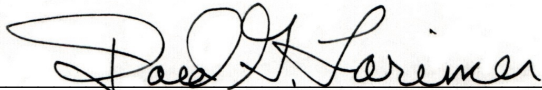
Respondent.

This Court issued a Decision and Order (Dkt. #27) on December 14, 2009, adopting the Report and Recommendation (Dkt. #26) of United States Magistrate Judge Victor E. Bianchini, and dismissed the habeas corpus petition of Lenell Robinson (“Robinson”), who was convicted in 1999 of second degree murder and a firearms offense. I noted in my decision that the time within which to object to the Magistrate Judge’s Report and Recommendation had long since elapsed and Robinson had failed to object.

Two days after this Court entered its decision, Robinson filed his objections (Dkt. #28) to the Magistrate Judge’s Report and Recommendation. Robinson claimed that he had been transferred to another facility for a court appearance without all of his legal papers and, therefore, was unable to file his objections in a timely manner. I accept Robinson’s reasons for his late filing and will consider his objections now.

I have reviewed Robinson's objections and find no basis to alter or amend my prior decision. I continue to believe that the Magistrate Judge's analysis of the facts, the law and the nature of Robinson's claims are correct. I agree with the Magistrate Judge that Robinson has failed to establish any constitutional violation. Therefore, I adhere to my prior Decision and Order of December 14, 2009 (Dkt. #27) denying and dismissing Robinson's petition for habeas corpus relief. I also adhere to my Decision and Order to deny a certificate of appealability.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 11, 2010.