

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Joseph Sposito v. Christopher Miller

No. 9:22-CV-686 (AJB/TWD) (N.D.N.Y. Dec. 1, 2025) · No. 9:22-CV-686 (AJB/TWD) · Decided December 1, 2025

SUMMARY

The United States District Court for the Northern District of New York adopted a magistrate judge’s Report and Recommendation and denied and dismissed Joseph Sposito’s 28 U.S.C. § 2254 habeas petition. The court rejected his ineffective-assistance claims concerning waiver of a Huntley hearing and failure to consult or call expert witnesses, and denied a Certificate of Appealability.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Anthony J. Brindisi
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	December 1, 2025
DOCKET	9:22-CV-686 (AJB/TWD)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas corpus relief under 28 U.S.C. § 2254 from his New York state-court convictions, challenging the effectiveness of trial counsel. After a magistrate judge recommended denial and dismissal, petitioner filed objections. The district court conducted de novo review, adopted the Report and Recommendation, denied and dismissed the petition, and denied a certificate of appealability.
STANDARD OF REVIEW	De novo review of objections to the magistrate judge's Report and Recommendation under 28 U.S.C. § 636(b)(1)(C), combined with the doubly deferential federal habeas standard applicable under 28 U.S.C. § 2254(d) and Strickland v. Washington when ineffective-assistance claims were adjudicated on the merits in state court.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Joseph Sposito v. Christopher Miller, Superintendent

TOPICS

federal habeas corpus

ineffective assistance

state post-conviction relief

standard of review

appellate procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

ineffective assistance

appellate procedure

QUESTIONS PRESENTED

1. Whether the state courts unreasonably rejected Sposito's ineffective-assistance claim based on trial counsel's waiver of a Huntley hearing.
2. Whether the state courts unreasonably rejected Sposito's ineffective-assistance claim based on trial counsel's failure to consult with or call expert witnesses.
3. Whether Sposito was entitled to a certificate of appealability based on the alleged strength of his ineffective-assistance claims, dissents in the state courts, and the New York Court of Appeals' grants of leave to appeal.

HOLDINGS

1. Sposito failed to show that the state courts unreasonably accepted trial counsel's waiver of a Huntley hearing, and he independently failed to establish Strickland prejudice.
2. Sposito failed to show that the New York courts unreasonably applied Strickland in concluding that counsel's decision not to consult with or call expert witnesses was a reasonable strategic choice, and he failed to establish prejudice.
3. No certificate of appealability should issue because Sposito failed to make a substantial showing that he was deprived of a federal constitutional right.

KEY QUOTATIONS

“Federal courts must guard against equating unreasonableness under Strickland with unreasonableness under § 2254(d).”

“Because he has not done so, and because neither of the state-court dissents offered a substantial basis on which to conclude otherwise, the R&R recommended that a Certificate of Appealability be denied.”

FACTUAL BACKGROUND

Sposito was convicted by jury verdict in Albany County of first-degree rape and first-degree criminal sexual act. His federal habeas claims challenged trial counsel's waiver of a Huntley hearing and counsel's decision not to consult with or call expert witnesses. The state post-conviction courts credited counsel's testimony that both decisions were strategic, and the federal court concluded that Sposito failed to establish either deficient performance or prejudice under the applicable deferential standards.

PROCEDURAL HISTORY

Sposito was convicted by a jury in Supreme Court, Albany County, of first-degree rape and first-degree criminal sexual act. He filed a § 2254 petition asserting ineffective assistance based on counsel's waiver of a Huntley hearing and failure to consult or call expert witnesses. Magistrate Judge Thérèse Wiley Dancks recommended denial and dismissal, concluding that the state courts reasonably rejected both claims under the deferential standards of Strickland and § 2254(d). The district court overruled Sposito's objections, adopted the recommendation, denied and dismissed the petition, and declined to issue a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Knowles v. Mirzayance, 556 U.S. 111, 123 (2009)
- Harrington v. Richter, 562 U.S. 86, 105 (2011)
- Strickland v. Washington, 466 U.S. 668, 687 (1984)
- People v. Sposito, 193 A.D.3d 1236, 1245 (3d Dep't 2021) (Colangelo, J., dissenting)
- McCray v. Capra, 45 F.4th 634, 640 (2d Cir. 2022)
- Rodriguez v. Capra, 2023 WL 2366884, at *5 (S.D.N.Y. Mar. 6, 2023)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

JOSEPH SPOSITO, Petitioner, -v- 9:22-CV-686
(AJB/TWD) CHRISTOPHER MILLER, Superintendent, Respondent.

Hon. Anthony Brindisi, U.S. District Judge:

ORDER ON REPORT & RECOMMENDATION On June 28, 2022, petitioner Joseph Sposito (“petitioner”), represented by counsel, filed this habeas corpus petition under 28 U.S.C. § 2254 challenging his conviction by jury verdict in Supreme Court, Albany County, of first-degree rape and first-degree criminal sexual act.

Dkt. No. 1. Petitioner paid the filing fee. Dkt. No. 2. The matter was initially assigned to Senior U.S. District Judge Thomas J. McAvoy, who ordered respondent to answer the petition and provide the relevant state-court records. Dkt. No. 3. Thereafter, the petition was fully briefed. Dkt. Nos. 12, 15, 17, 18, 28.

On August 27, 2025, U.S. Magistrate Judge Thérèse Wiley Dancks advised by Report & Recommendation (“R&R”) that the petition be denied and dismissed. Dkt. No. 30. There, Judge Dancks concluded that petitioner had failed to establish either of his ineffective-assistance claims against his former trial attorney. See *id.* at 26–44.¹ 1 Pagination corresponds to CM/ECF headers.

At the outset, Judge Dancks explained that where, as here, the petitioner’s ineffective- assistance claims were adjudicated on the merits in state-court post-conviction proceedings, a “doubly

deferential” standard applies on federal habeas review. *Knowles v. Mirzayance*, 556 U.S. 111, 123 (2009); see also *Harrington v. Richter*, 562 U.S. 86, 105 (2011) (“Federal courts must guard against equating unreasonableness under *Strickland* with unreasonableness under § 2254(d).”).

Mindful of this deference, and measured against the two-pronged federal standard for ineffective-assistance claims under *Strickland v. Washington*, 466 U.S. 668, 687 (1984), Judge Dancks concluded that petitioner had: (1) failed to show an “error in the state courts’ decisions to accept trial counsel’s waiver of the Huntley hearing,” Dkt. No. 30 at 34, but that, even if he were otherwise able to do so, he was unable to show *Strickland* prejudice, *id.* at 35–37; and that he had (2) failed to show that the New York Court of Appeals had “unreasonably applied *Strickland*” by concluding that his “trial counsel’s decision not to ‘consult with or call any expert witnesses’ constituted ‘a reasonable strategic choice,’” *id.* at 41 (citation omitted), but that, even if he were otherwise able to do so, he was unable to show *Strickland* prejudice, see *id.* at 42.

Accordingly, the R&R recommended that the petition be denied and dismissed. *Id.* at 43. Petitioner has lodged objections. Dkt. No. 33. The matter has recently been reassigned to this Court for a decision. Dkt. No. 34. At the Court’s request, respondent filed a response to petitioner’s objections. Dkt. No. 36. Upon *de novo* review, and with the benefit of respondent’s arguments, Judge Dancks’s R&R is accepted and will be adopted.

See 28 U.S.C. § 636(b)(1)(C). Indeed, petitioner’s objections must be overruled for substantially the reasons set forth in respondent’s thorough responsive brief. In addition to respondent’s well-founded arguments, the Court specifically rejects petitioner’s assertion that Judge Dancks’s R&R “simply repeat[ed] and accept[ed] the state courts’ conclusions without subjecting them to any level of scrutiny.” Dkt.

No. 33. To the contrary, the R&R appropriately accounted for the layered standard of deference owed to the state courts’ post-conviction determinations. If anything, petitioner’s arguments on habeas review suffer from the opposite problem: his briefing fails to persuasively articulate how he meets the deferential standard that applies at this late stage of his case.

Likewise, the mere fact that jurists on the Appellate Division and Court of Appeals issued dissents does not, *ipso facto*, establish that a Certificate of Appealability is warranted on either of his ineffective-assistance claims. Instead, the relevant question is whether petitioner has made a “substantial showing” that he has been deprived of a federal constitutional right.

Because he has not done so, and because neither of the state-court dissents offered a substantial basis on which to conclude otherwise, the R&R recommended that a Certificate of Appealability be denied. Broadly stated, petitioner contends that the “extremely rare” double-granting of leave to appeal to the New York Court of Appeals, together with the fact that appellate judges dissented on the ineffectiveness issue, establish that he is entitled to a certificate of appealability.

But this argument overstates the nature of the dissents. Although Justice Colangelo’s dissenting opinion does make reference to “prejudice,” *People v. Sposito*, 193 A.D.3d 1236, 1245 (3d Dep’t 2021) (Colangelo, J., dissenting), respondent correctly notes that New York uses a different ineffective-assistance legal standard than federal law. Dkt. No. 36 at 33–34.

Thus, as respondent correctly points out, “[n]o jurist has ever found that petitioner established Strickland prejudice for either of his ineffectiveness claims.” *Id.* at 34. Even putting that technical distinction aside, the Second Circuit has recently reiterated how deferential the standard of review is for § 2254 petitions, *McCray v. Capra*, 45 F.4th 634, 640 (2d Cir.

2022), and the lower courts have focused on that demanding standard in refusing to grant a certificate of appealability founded on an isolated statement by another jurist, see, e.g., *Rodriguez v. Capra*, 2023 WL 2366884, at *5 (S.D.N.Y. Mar. 6, 2023) (rejecting the petitioner’s assertion that a certificate of appealability should issue because the assigned magistrate judge, “a reasonable jurist,” might have so recommended).

In any event, a *de novo* review of petitioner’s objections to the R&R confirm that none of his arguments warrant any relief. As to his ineffective-assistance claims based on the waiver of a Huntley hearing, each of the state post-conviction courts credited trial counsel’s testimony at the evidentiary hearing, which established that the waiver was an intentional strategy that fell within the broad range of competence recognized under Strickland’s first prong.

The same is true of the ineffectiveness claim based on his trial counsel’s failure to consult with, or call, any experts—the state post-conviction courts credited trial counsel’s testimony that this approach was strategic in nature, and the underlying record established that this strategy was a reasonable one for purposes of a Strickland challenge.

Finally, as to both arguments, petitioner failed to show any Strickland prejudice as that term is defined under federal law. Accordingly, the R&R is accepted and will be adopted. Therefore, it is ORDERED that 1. The Report & Recommendation (Dkt. No. 30) is ACCEPTED; 2.

The petition is DENIED and DISMISSED; and 3. No Certificate of Appealability will be issued. The Clerk of the Court is directed to terminate the pending motion and close the file. IT IS SO ORDERED. Dated: December 1, 2025 per tdi Utica, New York Anthony J. Brindisj U.S. District Judg _4-