

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DOUGLAS T. MEYER,

Petitioner,

v.

MATTHEW J. FRANK, Secretary,
Wisconsin Department of Corrections,

Respondent.

ORDER

03-C-0236-C

Petitioner Douglas T. Meyer has filed objections to the report and recommendation entered by the United States Magistrate Judge on September 2, 2003, in which the magistrate judge recommended denial of petitioner's petition for a writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254. Petitioner objects to the magistrate judge's conclusion that the state court of appeals reasonably determined the facts and applied controlling Supreme Court precedent when it found that petitioner had entered his plea of guilty knowingly and intelligently.

In his objections, petitioner argues that it was totally unreasonable for the state courts to have concluded that when he entered his plea of guilty, he understood that the sentencing

court was not bound to accept the parties' recommendation for a four-year prison sentence. I agree with the magistrate judge that the state courts' conclusion was well within the bounds of reason, in light of the facts that petitioner's trial counsel testified that she had told him that the court did not have to follow the parties' recommendation but could impose any penalty up to and including the statutory maximum, that the parties referred throughout the plea proceeding to the "recommended" sentence, that the court had ordered a presentence investigation report, something it would not have done if it considered itself bound by the recommended sentence, and that petitioner never testified that he would not have pleaded guilty if he had known that the court was not bound by the terms of the plea agreement. Nothing that petitioner sets out in his objections persuades me that the magistrate judge erred in finding that the state courts' decisions were reasonable. Therefore, I will accept the magistrate judge's recommendation and deny petitioner's petition for a writ of habeas corpus.

ORDER

IT IS ORDERED that the recommendation of the United States Magistrate Judge is ADOPTED and petitioner Douglas T. Meyer's petition for a writ of habeas corpus, brought

pursuant to 28 U.S.C. § 2255, is DENIED on the merits.

Entered this 30th day of September, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge