

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D21081
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_____AD3d_____

Submitted - October 23, 2008

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2007-01842

DECISION & ORDER

The People, etc., ex rel. Ira Jarvis, appellant,
v Edward Reilly, etc., et al., respondents.

Martin Geoffrey Goldberg, Franklin Square, N.Y., for appellant.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Roseann B. Mackechnie
and Hannah Stith Long of counsel; Renee Phillip on the brief), for respondents.

In a proceeding pursuant to CPLR article 70 for a writ of habeas corpus, the appeal is from a judgment of the Supreme Court, Nassau County (Gulotta, Jr., J.), dated January 19, 2007, which, without a hearing, in effect, denied the petition and dismissed the proceeding.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

Subsequent to the Supreme Court's denial of the petition, the petitioner was released to parole supervision. Inasmuch as, under New York law, the liberty of a prisoner who is released on parole is no longer restrained to such a degree as to entitle him or her to the extraordinary writ of habeas corpus, the appeal must be dismissed (*see People ex rel. Wilder v Markley*, 26 NY2d 648; *People ex rel. Brown v New York State Div. of Parole*, 262 AD2d 433; *see also People ex rel. Burns v Mellas*, 34 AD3d 1299).

PRUDENTI, P.J., MASTRO, FISHER and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 18, 2008

PEOPLE EX REL. JARVIS v REILLY