

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

D34362
Y/prt

____AD3d____

Submitted - January 12, 2012

ANITA R. FLORIO, J.P.
CHERYL E. CHAMBERS
L. PRISCILLA HALL
ROBERT J. MILLER, JJ.

2010-09389

DECISION & ORDER

The People, etc., ex rel. Ramon Gutierrez, petitioner,
v Superintendent ADA Perez, etc., respondent.

(Index No. 7850/09)

Ramon Gutierrez, Fishkill, N.Y., petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Michael S. Belohlavek
and Laura R. Johnson of counsel), for respondent.

In a proceeding pursuant to CPLR article 70 for a writ of habeas corpus, the petitioner
appeals from a judgment of the Supreme Court, Dutchess County (Forman, J.), dated August 25,
2010, which, without a hearing, denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, without costs or disbursements.

The petitioner was convicted in 2002 in the Supreme Court, Albany County, of
various drug-related crimes. He was out on bail during his trial when he absconded to his native
country, the Dominican Republic. Consequently, he was sentenced in absentia to concurrent
indeterminate terms of 22 years to life in prison. Seven years later, United States authorities located
the petitioner in the Dominican Republic, which thereafter agreed to extradite him back to New York
to fulfill his sentence. The petitioner commenced this habeas corpus proceeding, claiming that he
was entitled to be released without serving his sentence because its maximum term of life
imprisonment violated either the extradition treaty between the Dominican Republic and the United
States or Dominican Republic law, or, alternatively, because he was illegally abducted to the United
States.

April 3, 2012

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There is no merit to the petitioner's contentions that New York lacked jurisdiction over him, that he should be immediately released from prison because, inter alia, he was allegedly abducted from the Dominican Republic under threat of violence by United States officials, and that his sentence was not reformulated to ensure that he served no more than 30 years in prison in accordance with Dominican Republic law (*see United States v Reed*, 639 F2d 896, 901; *United States ex rel. Lujan v Gengler*, 510 F2d 62, *cert denied* 421 US 1001; *United States v Cuevas*, 496 F3d 256, *cert denied* 552 US 1052).

FLORIO, J.P., CHAMBERS, HALL and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court