

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**1475**

**KAH 17-00488**

PRESENT: WHALEN, P.J., SMITH, CARNI, TROUTMAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK EX REL.  
TREVOR FREDERICK, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY,  
RESPONDENT-RESPONDENT.

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WILLIAMS, HEINL, MOODY & BUSCHMAN, P.C., AUBURN (RYAN JAMES MULDOON OF  
COUNSEL), FOR PETITIONER-APPELLANT.

TREVOR FREDERICK, PETITIONER-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (MARTIN A. HOTVET OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from a judgment (denominated order) of the Supreme Court, Cayuga County (Mark H. Fandrich, A.J.), entered October 13, 2016 in a habeas corpus proceeding. The judgment denied the petition and dismissed the proceeding.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Supreme Court properly denied the petition seeking a writ of habeas corpus and dismissed the proceeding. Habeas corpus relief is not an appropriate remedy where, as here, the claim raised by petitioner was or could have been raised on direct appeal or in a proceeding pursuant to CPL article 440 (see *People ex rel. Haddock v Dolce*, 149 AD3d 1593, 1593 [4th Dept 2017], lv denied 29 NY3d 917 [2017]). In addition, inasmuch as petitioner would not be entitled to immediate release even if his present contentions in his main and pro se supplemental briefs had merit, habeas corpus relief was properly denied on that ground as well (see *People ex rel. Bagley v Albaugh*, 278 AD2d 891, 891-892 [4th Dept 2000], lv denied 96 NY2d 709 [2001]).

Entered: December 22, 2017

Mark W. Bennett  
Clerk of the Court