

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

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WILLIAM F. MASTRO, J.P.
JOHN M. LEVENTHAL
SANDRA L. SGROI
FRANCESCA E. CONNOLLY, JJ.

2017-11651

DECISION & JUDGMENT

In the Matter of Xavier Josey, petitioner, v Steven W.
Paynter, etc., et al., respondents.

Seymour W. James, Jr., New York, NY (Joshua Norkin, pro se, of counsel), for petitioner.

Eric T. Schneiderman, Attorney General, New York, NY (Michael A. Berg of counsel), for respondents Steven W. Paynter and Jerry Iannece.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnette Traill, Nancy Fitzpatrick Talcott, and Jonathan K. Yi of counsel), respondent pro se.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of mandamus to compel the respondent Steven W. Paynter, a Justice of the Supreme Court, Queens County, to issue a writ of habeas corpus in the nature of pre-trial bail reduction in an action entitled *People v Josey*, commenced in the Supreme Court, Queens County, under Indictment No. 178/17.

ADJUDGED that the petition is denied as academic and the proceeding is dismissed, without costs or disbursements.

The instant proceeding has been rendered academic, as Xavier Josey entered a plea of guilty on November 21, 2017, in satisfaction of all charges pending against him. Contrary to the petitioner's contention, this case does not warrant the invocation of the exception to the mootness doctrine (*see Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715). Accordingly, the proceeding must be dismissed.

MASTRO, J.P., LEVENTHAL, SGROI and CONNOLLY, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

February 14, 2018

MATTER OF JOSEY v PAYNTER