

**People ex rel. Barber v Williams**

2007 NY Slip Op 30049(U)

March 8, 2007

Supreme Court, Seneca County

Docket Number: 0039156

Judge: Dennis F. Bender

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**PEOPLE ex rel. JOSHUA BARBER,**  
DIN #: 04-B-1618,

Petitioner

**DECISION AND JUDGMENT**

-against-

Index No. 39156

**MELVIN WILLIAMS, SUPERINTENDENT OF  
WILLARD DRUG TREATMENT CAMPUS,**  
Respondent.

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The petitioner, Joshua Barber, filed an application for writ relief alleging he was not timely transferred to the Willard Drug Treatment Campus following his final parole revocation hearing which resulted in the revocation of his parole but restoration to parole following successful completion of the Willard program. A Return was filed by the respondents through Assistant Attorney General James L. Gelormini, Esq. The respondent does not dispute that the petitioner's final parole revocation hearing was held on December 12, 2006, that he was not received by DOCS until January 9, 2007 and that he arrived at the Willard Drug Treatment Campus on January 22, 2007.

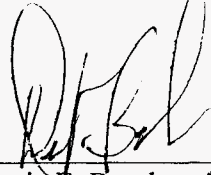
The respondent first argues rather that the date of calculation for timely transfer should be the date DOCS is notified by the local facility the inmate is "state ready". For reasons stated in People ex. rel. James Woelfle v. Thomas Poole, Superintendent of Five Points Correctional Facility, Index No. 39163, also decided this date by this Court, that argument is rejected.

The respondent also argues that because the fortieth day from the final parole revocation hearing was a Sunday, General Construction Law section 25-a rendered delivery of the petitioner on the following date timely. This argument is likewise rejected. Cases citing this section generally relate to matters of service or the holding of hearings, and do not address liberty interests as are present here.

NOW THEREFORE, it is

ADJUDGED AND ORDERED, that Joshua Barber be and hereby is entitled to be released forthwith, which the Court interprets to mean within 10 days of this Judgment from the Willard Drug Treatment Campus to community-based parole supervision. The Petitioner is responsible for reporting to approved housing as soon as practicable following his release and to comply with all other conditions of his parole supervision.

Dated: March 8, 2007



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Dennis F. Bender, Acting J.S.C.