

People ex rel. Mills v Colvin

2018 NY Slip Op 33654(U)

August 7, 2018

Supreme Court, Seneca County

Docket Number: 52273

Judge: Daniel J. Doyle

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

STATE OF NEW YORK
 SUPREME COURT COUNTY OF SENECA

The People of the State of New York
 ex rel. RICHARD MILLS
 DIN # 02-B-0778,

Petitioner

-against-

SUPERINTENDENT
 COLVIN, ANDREW CUOMO, GOVERNOR,
 Respondents

DECISION AND
 JUDGMENT

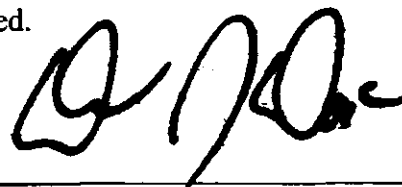
Index No. 52273

The Petitioner herein has filed a petition for a Writ of Habeas Corpus alleging that the respondents lack authority to hold him incarcerated, and that the trial court never had jurisdiction to convict and sentence him. The Petitioner was convicted of Attempted Murder 1st Degree, Attempted Assault 1st Degree, Reckless Endangerment 1st Degree and Criminal Possession of a Weapon 3rd Degree. He directly appealed his conviction and sentence, and his conviction and sentence were affirmed. (P v Mills, 28 AD 3d 1156(4th Dept., 2006), lv. Den. 7 NY 3d 903(2006). He received a sentence of 20 years to Life.

All issues currently raised could have been, or were, previously addressed by direct appeal or CPL 440 motion. As acknowledged by the petitioner, he has previously filed multiple applications for writ relief in the State and Federal Courts, as well as CPL 440 motions in the State courts. All of the arguments were found meritless. The petitioner still cannot show his entitlement to immediate release, and therefore, a writ of habeas corpus is not warranted. P ex. Rel. Reed v Travis, 12 AD 3d 1102(4th Dept., 2004) Further, writ relief is not warranted when the issues were, or could have been, raised on direct appeal or by CPL 440 motion. P ex. Rel. Abdullah v Walker, 199 AD 2d 1074, 1075(4th Dept., 1993), lv. Den. 83 NY 2d 752(1994); P ex. Rel. Spencer v Burge, 307 AD 2d 772(4th Dept., 2003). The petitioner has raised these issues before and he has made no

showing of changed circumstances that would warrant further habeas corpus review. P ex. Rel. Spencer v. Burge, supra; P ex. Rel. Reed v Tedford, 110 AD 3d 1123(3d Dept., 2013).

The petition is in all respects denied and dismissed.

A handwritten signature in black ink, appearing to read 'D. Doyle', written over a horizontal line.

August 7, 2018

Hon. Daniel J. Doyle