

People ex rel. Azeez v Noeth

2021 NY Slip Op 31664(U)

May 15, 2020

Supreme Court, Wyoming County

Docket Number: 22091-20

Judge: Michael M. Mohun

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This opinion is uncorrected and not selected for official publication.

At a term of Supreme Court held in and for the County of Wyoming, in Warsaw, New York, on the 15th day of May, 2020.

PRESENT: HONORABLE MICHAEL M. MOHUN
Acting Supreme Court Justice

STATE OF NEW YORK
SUPREME COURT : COUNTY OF WYOMING

2020 MAY 18 PM 2:49
WYOMING COUNTY CLERK
WARSAW, N.Y.

THE PEOPLE OF THE STATE OF NEW YORK
ex rel. ABDOOL AZEEZ, #18-A-0314
Relator

MEMORANDUM AND JUDGMENT

v.

Index No. 22091-20

SUPERINTENDENT J. NOETH
ATTICA CORRECTIONAL FACILITY
Respondent

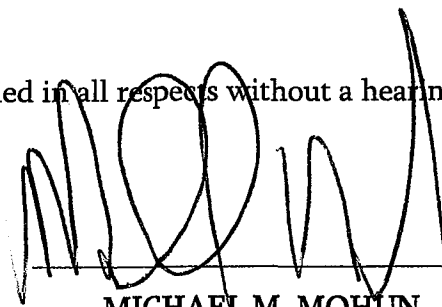
Upon reading and filing the above-named relator's petition for a writ of habeas corpus, verified on April 25, 2020, the Court finds that the petition is facially insufficient because it fails to comply with the requirements of CPLR §7002(c) (see Matter of Tullis v. Kelly, 154 A.D.2d 926 [1989]; People ex rel Medina v. Senkowski, 265 A.D.2d 779 [1999]). The Court further finds that the petition must be dismissed because the matter is inappropriate for habeas corpus relief. In his petition, the relator is seeking to collaterally attack a judgment of conviction and sentence rendered in another court based upon grounds which either have been, or which could be, raised and decided through a direct appeal (the Court notes that the relator's direct appeal is currently pending, see The People, etc., respondent, v. Abdool Shaad Azeez, appellant, 2019 N.Y. Slip Op. 85411(U) [motion decision, 2nd Dept., December 5, 2019]), or through a proceeding brought for relief pursuant to CPL Article 440 (see People ex rel. Knox v. Smith, 60 A.D.2d 789 [4th Dept., 1977], leave to appeal denied by 43 N.Y.2d 647 [1978]; People ex rel. Abdullah v. Walker, 199 A.D.2d 1074 [4th Dept., 1993], leave to appeal denied by 83 N.Y.2d 752 [1994]; People ex rel. Spencer v. Burge, 307 A.D.2d 772 [4th Dept., 2003]; People ex rel. Reed v. Travis, 12 A.D.3d 1102 [4th Dept., 2005], leave to appeal denied by 4 N.Y.3d 704 [2004]; People ex rel. Gloss v. Murray, 35 A.D.3d 1186 [4th Dept., 2006], leave to appeal denied by 8 N.Y.3d 807 [2007]). The relator has not shown that a basis exists for a departure from "traditional orderly procedure" in this case (People ex rel. Tuszynski v. Stallone, 117 A.D.3d 1472 [4th Dept., 2014]; People ex rel.

Keitt v. McMann, 18 N.Y.2d 257 [1966]),

NOW, THEREFORE, it is hereby

ORDERED that the petition is denied in all respects without a hearing.

Dated: May 15, 2019

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

MICHAEL M. MOHUN
Acting Supreme Court Justice