

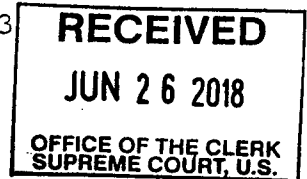
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Clerk of the Court
United States Supreme Court
1 First St; NE
Washington DC 20547

Stuart Dizak
09B3893
Mid-State C.F.
P.O. Box 2500
Marcy, NY 13403

May 20, 2018

RE: Dizak V. McAuffe, 17-1816



Dear Sir/Madam,

STATUS PLEASE?

I am requesting a 60 day extension to file a writ of certiorari
in the above case. On March 16, 2018, the U.S. Court of Appeals,
second Circuit, denied my motion for reconsideration, en banc.
A mandate was issued on March 29, 2018.

The primary basis for my appeal was that during my trial in Rochester,
NY during October of 2009, there were two substantive jury notes
sent out by the jury during deliberations. I was not returned
to the courtroom for either of the two notes; ~~contrary to Fed Cr Pr Rule~~
43a. (See U.S. v Ornales. 820 F3d 1100 for best description, a violation of the
5th, 6th and 14th amendments.) What the judge told the attorneys was that she
had received the first note at 12:29 PM requesting the definition of conspiracy,
the crime that I was on trial for. The court failed to respond to that note.

Of much greater significance was that there was there was an earlier note, submitted
four minutes after the left the courtroom for deliberations and the court into
recess. That note (jury note #1) requesting the exhibits was resposed
too, but concealed from defendant, counsel, transcript and court
record. I only became aware of this when the court clerk, in place
of "jury notes read into the record," which he could not locate,
provided me with a copy of the Court Reporter's Timeline. (encl)
I am requesting the above extension as I am trying to locate a legal
service to prepare the writ of Cirtiorai. There is also a possibility
that the matter may be resolved in the meantime in Monroe County
(Rochester) Court via a reconstruction/evidentiary hearing.

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Clerk of The Court, United States Supreme Court May 20, 2018

In April of 2016 I was diagnosed with Dementia and in September of 2017 with a brain damage to my frontal lobes, making it extremely difficult for me to proceed further on my own. I am 75 years of age and have been informed that I may have less than two viable years left to my life.

I understand that there may be some form of a veterans benefit to me. I served in the U.S. Army from September of 1961 until July 1964. I was honorably discharged at the rank of E-4; RA 12634730

Thank you for your consideration.

Respectfully yours,


Stuart Dizak

Encl:

NOTE: THESE ARE THE SAME DOCUMENTS I WILL BE
SUBMITTING WITH THE WRIT OF HABEAS CORPUS
INFORMS PROPERLY PREVIOUSLY PROVIDED
TO WDNY AND COURT OF APPEALS 2ND CIR

- 1 2ND CIR DECISION ON WRIT 18 OCT 2017, DENIED 3/16/18 #
- 1 A MOTION FOR RECONSIDERATION FOR 12/16
- 8 B SUPPORTING STATEMENT 1-8
- 2 C SUMMARY OF COURT RECORD
- 1 D US GRANT 820 F.3d 1111
- 1 E WILLIAM V PA 136 S Ct 1895

2 COVER

17

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 16th day of March, two thousand eighteen.

Stuart Dizak,

Petitioner - Appellant,

v.

Brian McAuliffe, Superintendent,

Respondent - Appellee.

ORDER


Docket No: 17-1816

Appellant, Stuart Dizak, filed a motion for panel reconsideration, or, in the alternative, for reconsideration *en banc*. The panel that determined the appeal has considered the request for reconsideration, and the active members of the Court have considered the request for reconsideration *en banc*.

IT IS HEREBY ORDERED that the motion is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

A circular seal of the United States Court of Appeals for the Second Circuit is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS".

W.D.N.Y.
16-cv-314
Vilardo, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18th day of October, two thousand seventeen.

Present:

Amalya L. Kearse,
José A. Cabranes,
Richard C. Wesley,
Circuit Judges.

Stuart Dizak,

Petitioner-Appellant,

v.

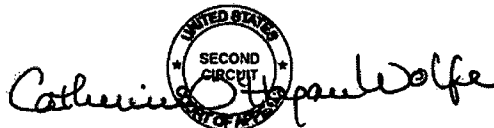
17-1816

Brian McAuliffe, Superintendent,

Respondent-Appellee.

Appellant, pro se, moves for a certificate of appealability, in forma pauperis status, and appointment of counsel. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal is DISMISSED because (1) Appellant has failed to show that “jurists of reason would find it debatable whether the district court was correct in its procedural ruling” as to the untimeliness of Appellant’s claims, *Slack v. McDaniel*, 529 U.S. 473, 478 (2000), and (2) Appellant has not “made a substantial showing of the denial of a constitutional right.” *Id.* at 481 (quoting 28 U.S.C. § 2253(c)); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk

The block contains a handwritten signature, "Catherine O'Hagan Wolfe", written in black ink. To the left of the signature is the official seal of the United States Court of Appeals for the Second Circuit. The seal is circular with "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom.