

COPY

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. McAuiffe, 17-1816

RECEIVED

JUN 26 2018

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

STATUS PLEASE?

Dear Sir/Madam,

I am requesting a 60 day extension to file a writ of certiori 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 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 responded to, 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 certiori. 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*  
Stuart Dizak

Encl:

NOTE: THESE ARE THE SAME DOCUMENTS & WILL BE  
SUBMITTING WITH THE UNIT OF CERTIFICATION  
INFORMS REQUESTS PREVIOUSLY PROVIDED  
TO WDNY AND COUNT OF AMERICA, 2nd CIR  
1. 2 NO 'CCAC MEDICAL ORNISIA 18 Oct 2017, DATER 3/16/18  
1. A SUPPORTIVE DOCUMENTATION TO THE DATER ~~4/16/18~~  
8 B SUPPORTIVE STATEMENT 1-8  
2 C SUMMARY OF COUNT ERNIS  
1 D U.S. GRANADES 820 F3A 11A  
1 E WILLIAM V. PA 136 SET 1899

2 CUL62

17

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

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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 16<sup>th</sup> day of March, two thousand eighteen.

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Stuart Dizak,

Petitioner - Appellant,

v.

Brian McAuliffe, Superintendent,

Respondent - Appellee.

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**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

  
Catherine O'Hagan Wolfe

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 18<sup>th</sup> day of October, two thousand seventeen.

Present:

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

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Stuart Dizak,

*Petitioner-Appellant,*

v.

17-1816

Brian McAuliffe, Superintendent,

*Respondent-Appellee.*

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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

*Catherine O'Hagan Wolfe*  
