

APPENDIX "A"

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

VALERY LATOUCHE,

DECISION & ORDER

IND. # 05-35

Defendant.

The defendant has moved for an order vacating the judgment imposed by the trial Court following a jury verdict finding the defendant guilty of Murder in the Second Degree, as well as robbery and weapon charges. The defendant received a sentence of 25 years to life on the murder conviction as well as concurrent sentences on the other charges.

The defendant filed a direct appeal of the conviction. The Appellate Division affirmed the conviction. People v. Latouche, 61 A.D.3d 702 (2nd Dep't 2009). Two previous motions pursuant C.P.L. §440 were denied. Additionally, the defendant's federal *habeas corpus* petition was denied in 2013.

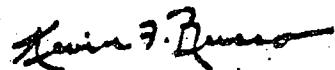
The defendant now moves to vacate the judgment of the trial court claiming that his trial counsel was ineffective in failing to submit certain documents during the suppression hearing, to wit, documents allegedly demonstrating a finding of borderline mental retardation.

C.P.L. §440.10(3)(c) provides that "the court may deny a motion to vacate a judgment when: [u]pon a previous motion made pursuant to this section, the defendant was in a position adequately to raise the ground or issue underlying the present motion but did not do so." In this case, the defendant has made two prior 440 motions, but has inexplicably failed to raise this issue. Therefore, the Court denies the motion without reaching the merits of the defendant's contention.

This Decision shall constitute the Order of the Court.

ENTER

Dated: New City, New York
March 5, 2019



Rockland County Court Judge

KEVIN F. RUSSO
J.C.C.

APPENDIX “B”

Supreme Court of the State of New York
Appellate Division : Second Judicial Department

M264170
SL/

ROBERT J. MILLER, J.

2019-05742

DECISION & ORDER ON APPLICATION

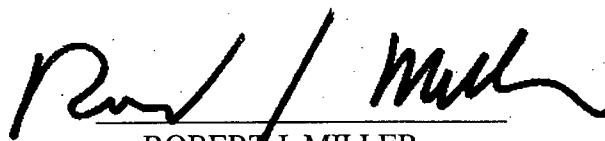
The People, etc., plaintiff,
v Valery LaTouche, defendant.

(Ind. No. 05-00035)

Application by the defendant pursuant to CPL 450.15 and 460.15 for a certificate granting leave to appeal to this Court from an order of the County Court, Rockland County, dated March 5, 2019, which has been referred to me for determination.

Upon the papers filed in support of the application and the papers filed in opposition thereto, it is

ORDERED that the application is denied.


ROBERT J. MILLER
Associate Justice

July 8, 2019

PEOPLE v LaTOUCHE, VALERY

APPENDIX "C"

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

VALERY LATOUCHE,

DECISION & ORDER

IND. # 05-53

Defendant.

The defendant has moved for an order granting reargument of a prior motion to vacate the judgment imposed by the trial Court. The defendant has annexed an "Affidavit of Service" attesting to the filing of the instant motion. The affidavit does not indicate that the motion was served upon the People. Accordingly, the motion is denied.

This Decision shall constitute the Order of the Court.

E N T E R

Dated: New City, New York
June 28, 2019


Rockland County Court Judge
KEVIN T. RUSSO
J.C.C.

APPENDIX “D”

Supreme Court of the State of New York
Appellate Division : Second Judicial Department

M268160
SL/

ROBERT J. MILLER, J.

2019-05742

The People, etc., plaintiff,
v Valery LaTouche, defendant.

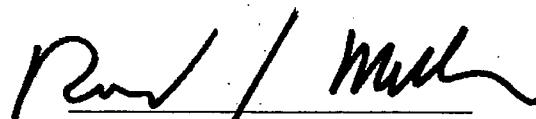
(Ind. No. 05-00035)

DECISION & ORDER ON MOTION

Motion by the defendant for leave to reargue his prior application pursuant to CPL 450.15 and 460.15 for a certificate granting leave to appeal to this Court from an order of the County Court, Rockland County, dated March 5, 2019, which was denied by me in a decision and order on application dated July 8, 2019.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied.



ROBERT J. MILLER
Associate Justice

December 12, 2019

PEOPLE v LaTOUCHE, VALERY

EXHIBIT: "E"

State of New York

Court of Appeals

BEFORE: HON. JANET DiFIORE, Chief Judge

THE PEOPLE OF THE STATE OF NEW YORK,

VALERY LaTOUCHE,

Respondent,
- against -

**ORDER
DISMISSING
LEAVE**

Ind. No. 05-00035

Appellant.

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law (CPL) § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is
ORDERED that the application is dismissed because the order sought to be appealed from is not appealable under CPL § 450.90(1).

Dated:

MAR 27 2020



Chief Judge

*Description of Order: Order of a Justice of the Appellate Division, Second Department, dated July 8, 2019, denying leave to appeal to the Appellate Division from an order of County Court, Rockland County, dated March 5, 2019.