

INDEX TO PETITIONER'S APPENDICES

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INDEX TO PETITIONER'S EXHIBITS UNDER RULE 32

18 exhibit pictures numbered (3-16 and 21-24 and 8, 15), and (14 exhibit pictures A-R) included in the record below.

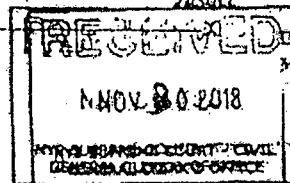
1a
Appendix ASUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. VERNAL SAUNDERS PART 1A MOTION 5

ISIDRO ABASCAL-MONTALVO,

Plaintiff

THE CITY OF NEW YORK,

Defendant

INDEX NO.
MOTION SEQ. NO.100112/2016
001

DECISION AND ORDER

The following papers, numbered 1 to 3, were read on this application to/for COMPEL

Notice of Motion/ Petition/ OSC - Affidavits - Exhibits	FILED	No(s) 001
Answering Affidavits - Exhibits		No(s) 002
Replying	DEC 03 2018	No(s) 003

COUNTY CLERK'S OFFICE
NEW YORK

Plaintiff, *Pro se*, moves the Court pursuant to CPLR 3124 seeking a response to its request for "Production of Documents and Request for Interrogatories" served on March 20, 2017 and pursuant to the subsequent April 27, 2017 stipulation regarding same. Defendant, City of New York ("City") cross-moves seeking dismissal of the complaint and a stay of discovery pending the outcome of the instant motion to dismiss. Specifically, the City asserts that plaintiff's causes of action relating to "organized stalking" and "remote electronic assaults" are incredible and fail to state a cause of action; that causes of action relating to false arrest, assault, and battery arising from the plaintiff's alleged confinement on October 24, 2014 is privileged under Mental Hygiene Law § 9.4; and causes of action pertaining to events prior to October 23, 2014 are time-barred as beyond the statute of limitations.

Pursuant to Mental Hygiene Law § 9.41 an officer "may take into custody any person who appears to be mentally ill and is conducting himself in a manner which is likely to result in serious harm to himself or others." Here, inasmuch as it is undisputed that plaintiff was detained on October 24, 2014 in order to receive a psychiatric evaluation, said detention was privileged under Mental Hygiene Law § 9.41 and thus any causes of action relating thereto are dismissed.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x-----
ISIDRO ABASCAL-MONTALVO,

NOTICE OF ENTRY OF
ORDER

Plaintiff,

- against -

Index No: 100112/2016
File No: 2016-014534

THE CITY OF NEW YORK,

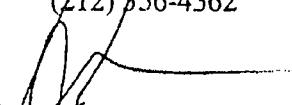
Defendant.

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PLEASE TAKE NOTICE that the attached is a true copy of an Order in this matter that
was entered by the Court on December 3, 2018.

Dated: New York, NY
December 13, 2018

ZACHARY W. CARTER
Corporation Counsel of the City of
New York
Attorney for Defendants
100 Church Street
New York, NY 10007
(212) 356-4362

By: 

AARON WIENER
Assistant Corporation Counsel

TO: VIA MAIL

ISIDRO ABASCAL-MONTALVO
P.O. BOX 7977
NEW YORK, NY 10116

Appendix B

Richter, J.P., Gische, Mazzarelli, Gesmer, JJ.

10919 Isidro Abascal-Montalvo,
Plaintiff-Appellant,

Index 100112/16

-against-

The City of New York,
Defendant-Respondent.

Isidro Abascal-Montalvo, appellant pro se.

Georgia M. Pestana, Acting Corporation Counsel, New York (Barbara Graves-Poller of counsel), for respondent.

Order, Supreme Court, New York County (Verna L. Saunders, J.), entered December 3, 2018, which, as limited by the briefs, granted defendant's cross motion to dismiss the complaint, unanimously affirmed, without costs.

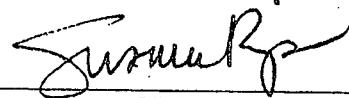
The complaint fails to state a cause of action for false arrest or imprisonment because plaintiff's own allegations establish that his arrest and detention for a mental health evaluation were privileged (Mental Hygiene Law § 9.41; see *Kwasnik v City of New York*, 298 AD2d 502, 503, [2d Dept 2002]). The remaining allegations in the complaint fail to state any

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other cause of action (see *JFK Holding Co., LLC v City of New York*, 68 AD3d 477, 477 [1st Dept 2009]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JANUARY 30, 2020



CLERK

APPELLATE DIVISION SUPREME COURT FIRST DEPARTMENT
STATE OF NEW YORK

I, SUSANNA ROJAS, Clerk of the Appellate Division of the Supreme Court First Judicial Department, do hereby certify that I have compared this copy with the original thereof filed in said office on January 30, 2020 that the same is a correct transcript thereof, and of the whole of said original.
IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court
on January 30, 2020



CLERK

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Appendix C

State of New York
Court of Appeals

*Decided and Entered on the
ninth day of June, 2020*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

Mo. No. 2020-179

Isidro Abascal-Montalvo,
Appellant,

v.

City of New York,
Respondent.

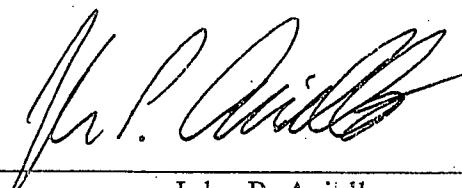
Appellant having appealed and moved for leave to appeal and for poor person relief in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, on the Court's own motion, that the appeal is dismissed, without costs, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (see CPLR 5601); and it is further

ORDERED, that the motion for leave to appeal is denied; and it is further

ORDERED, that the motion for poor person relief is dismissed as academic.



John P. Asiello
Clerk of the Court

CERTIFICATE OF COMPLIANCE

NYCA No. 2020-179

ISIDRO ABASCAL-MONTALVO,

Petitioner,

V.

THE CITY OF NEW YORK,

Respondent.

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 7,978 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 3, 2020

A handwritten signature in black ink, appearing to read "Isidro Abascal", is placed over a dashed horizontal line.

IN THE
SUPREME COURT OF THE UNITED STATES

ISIDRO ABASCAL-MONTALVO,

Petitioner,

V.

THE CITY OF NEW YORK,

Respondent.

PROOF OF SERVICE

I Isidro Abascal-Montalvo, do declare that on this date, August3, 2020, as required by Supreme Court Rule 29 I have served the enclosed PETITION FOR A WRIT OF CERTIORARI with Appendixon each party to the above proceeding, and on every person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid.

The names and addresses of those served are as follow:

Barbara Graves-Poller
Assistant Corporation Counsel
100 Church Street
New York, NY 10007
(212) 356-2275
bgraves@law.nyc.gov

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on August3, 2020.