

APPENDIX A

S.D.N.Y. – N.Y.C.
16-cv-7201
Preska, J.
Parker, M.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 7th day of July, two thousand twenty-two.

Present:

Debra Ann Livingston,
Chief Judge,
José A. Cabranes,
Raymond J. Lohier, Jr.,
Circuit Judges.

Hugues-Denver Akassy,

Petitioner-Appellant,

v.

20-3246

Michael Kirkpatrick,

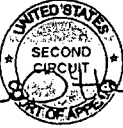
Respondent-Appellee.

Appellant, pro se, moves for a certificate of appealability (“COA”) and other relief. Upon due consideration, it is hereby ORDERED that the COA motion is DENIED and the appeal is DISMISSED because Appellant has not “made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); see *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). It is further ORDERED that the remaining motion is DENIED.

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

Catherine O'Hagan Wolfe



APPENDIX A (1)

**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 3rd day of November, two thousand twenty.

Before: Michael H. Park,
Circuit Judge.

Hugues-Denver Akassy,

Petitioner - Appellant,

v.

Michael Kirkpatrick,

Respondent - Appellee.

ORDER

Docket No. 20-3246

Appellant, pro se, moves for an extension of time until November 30, 2020 to file a motion for a certificate of appealability.

IT IS HEREBY ORDERED that Appellant's motion for extension of time is GRANTED.

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court

APPENDIX A (2)

**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 7th day of December, two thousand twenty.

Before: Raymond J. Lohier, Jr.,
 Circuit Judge.

ORDER

Hugues-Denver Akassy,

Docket No. 20-3246

Petitioner - Appellant,

v.

Michael Kirkpatrick,

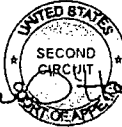
Respondent - Appellee.

Appellant, pro se, moves for leave to file an oversized motion for certificate of appealability of 25 pages.

IT IS HEREBY ORDERED that the request to file the oversized motion is GRANTED.

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court

Catherine O'Hagan Wolfe

The seal of the United States Court of Appeals for the Second Circuit is circular. It features the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom, separated by small stars.

APPENDIX A (3)

October 31, 2020

Ms. Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, N.Y. 10007

RE: Motion Information Statement for Evidentiary Hearing in the
Matter of Akassy v. Kirkpatrick, Docket No. 20-3246

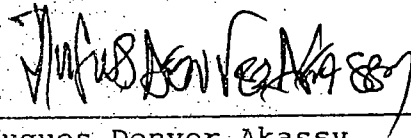
Dear Ms. Wolfe:

Enclosed is my Motion Information Statement for evidentiary hearing in reference to my Certificate of Appealability.

In reference to your Notice of Defective Filing dated October 23, 2020, for missing motion information statement (T-1080 - Local Rule 27.1) for certificate of appealability and for evidentiary hearing, please note that because the Wende Correctional Facility's Law Library's photocopy-machine is currently out of service, I did file out double the Motion Information Statement (a bit different from the one showing your name) in order to serve the Respondent with proof of service.

I thank you very much for your consideration.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN #: 11 A 5580
Wende Corr. Facility
3040 Wende Rd., P.O. BOX 1187
Alden, New York, N.Y. 14004-1187

cc: Enclosed

U.S. COURT OF APPEALS
CLERK'S OFFICE

2020 NOV -9 AM 10:44

RECEIVED

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

HUGUES-DENVER AKASSY,) DOCKET No.: 20-3246
)
) PETITIONER'S STATEMENT OF
Petitioner,) FACTS AND LAWS IN SUPPORT
) OF A CERTIFICATE OF
v.) APPEALABILITY OF DOCKET
) No. 16-CV-7201 (LAP)
)
)
MICHAEL KIRKPATRICK,) PRO SE
)
) Respondent.)

BEFORE THE HONORABLE ROBERT A. KATZMANN,
CHIEF JUDGE FOR THE SECOND CIRCUIT:

PRELIMINARY STATEMENT

I, Hugues-Denver Akassy, the Petitioner in the above captioned-case, state the following to be true under penalties of perjury.

This is a Motion for Certificate of Appealability from an order dated July 16, 2020 (Dkt. No. 97), of United States District Judge Loretta A. Preska, United States District Court for the Southern District of New York, erroneously dismissing my Pro Se Petition for ~~Writ of Habeas Corpus under 28 U.S.C. § 2254 by a Person in State~~ Custody, Docket No. 16-CV-7201(LAP), which was not served on time by the Clerk of the Court. Annexed hereto as EXHIBIT A is a true copy of the order, as follows:

Having requested the court docket sheet on July 28, 2020 (Dkt. No. 98), which was served on August 13, 2020, to my great surprise, I realized that my habeas corpus was decided back on July 16, 2020, but the Clerk of the Court failed to have me served.

RECEIVED
2020 OCT 20 AM 9:24
CLERK'S OFFICE
U.S. COURT OF APPEALS
COURT 2

As a result, on the same day of August 13, 2020, I moved to file a letter-as-motion (Dkt. No. 99) asking the court to "bypass" the Clerk of the Court to have me served her July 16, 2020 order (Dkt. No. 97 id), and I moved to inform this Court of my efforts to obtain the district judge's July 16, 2020 order.

In response to my letter-as-motion (Dkt. No. 99, id.) seeking the district judge's July 16, 2020 order (Dkt. No. 97, id.), District Judge Preska issued a second order dated August 20, 2020 (Dkt. No. 100), directing the Clerk of the Court to have me served her July 16, 2020 order, and granted me a 90-day extension of time to file my Notice of Appeal. Annexed hereto as EXHIBIT B is a true copy of the order, as submitted.

But the Clerk of the Court had me served only the district judge's August 20, 2020 order (Dkt. No. 100, id.) without the July 16, 2020 order (Dkt. No. 97, id.) as requested.

As a result, on August 29, 2020, I moved to file an Emergency Motion with attachment Exhibits A, B, C, (Dkt. No. 102), asking again the district judge to "bypass and change of venue" to have me served her July 16, 2020 order (Dkt. No. 97, id.) and transferred my habeas corpus to the United States District Court for the

District of Columbia, because of Magistrate Judge Katherine H. Parker's lack of jurisdiction on my habeas corpus and the Clerk of the Court's lack of services of the district judges' orders and asking me to pay in order to obtain their copies despite being granted in forma pauperis status to prosecute my case. Annexed hereto as EXHIBIT C is a true copy of the Clerk of the Court's letter dated February 24, 2017, submitted herewith.

On September 14, 2020, District Judge Preska had me served her July 16, 2020 order (Dkt. No. 97, id.). Upon reception of the order dismissing my petition for writ of habeas corpus and denying me a certificate of appealability, on the same day of September 14, 2020, I moved to file a Notice of Appeal with the Pro Se Intake Unit of the United States District Court for the Southern District of New York, and a copy of the Notice of Appeal was also served to the Clerk of this Court. On September 28, 2020, due to the COVID-19 prison restriction, I filed a motion for a 60-day extension of time with this Court to file my certificate of appealability to be submitted by November 30, 2020.

APOLOGY TO THE COURT

First, I wish to apologize for the prolixity, disorganization and tone of my previous submissions and communications, without excusing my verbal excesses: since being imprisoned, I have been in a state of extreme emotional upset. I do not hail from a subculture where incarceration is acceptable, so that the cruelty and callousness of my treatment have been quite disequilibrating and stirred desperate sentiments; the intensity of my feelings of ~~having been wronged and misrepresented in courts and in the court~~ of public opinion is exacerbated by my own certainty of actual innocence, as I hope to demonstrate in this appeal; and my training and experience as an international journalist - a foreign freelance correspondent to the United States since 1994 - accustoms me to a style of writing in the French language intended to engage the reader on a "gut level," and I am only slowly - but surely I hope - adapting to the measured and dispassionate style appropriate for court papers.

STATEMENT OF FACTS

District Judge Preska's July 16, 2020 Order on Habeas Corpus

1. District Judge Preska held that I "filed a petition for a writ for habeas corpus under 28 U.S.C. § 2254, challenging his conviction in New York State Supreme Court for [sic] rape, harassment, and other offenses. (Dkt. No. 2.)"

2. District Judge Preska held that: "On December 7, 2018, Magistrate Judge Katherine H. Parker [sic] issued a carefully reasoned 63-page Report and Recommendation recommending that Mr. Akassy's petition be dismissed in its entirety. (Dkt. No. 73)."

3. District Judge Preska held that: "Mr. Akassy's principal objection is that Magistrate Judge Parker erred in denying him relief based on the alleged falsification of his indictment. (See, e.g., dkt. no 74 at 2-3, 5-6, 8, 9, 10.) Reviewing de novo Mr. Akassy's arguments on that point, the Court finds them meritless."

¹ In my libel actions against some of New York news organizations, then-Chief Judge for the Southern District of New York, District Judge Preska, in her sua sponte summary judgment dismissing my pro se Complaints under the State of New York's 1 year statute of limitation, dated April 28, 2014, held that: "In 2010, Plaintiff was [sic] indicted in New York State Supreme Court, New York County, for crimes against several women. After a jury trial in 2011, Plaintiff was convicted of one count of first-degree rape and sentenced to twenty years in prison. The trial court denied Plaintiff's motion under New York Criminal Procedure Law § 440.10 to vacate that conviction. People v. Akassy, 45 Misc. 3d 1211 (N.Y. Sup. Ct. Oct. 3, 2014). Plaintiff's criminal matter garnered a great deal of publicity, and he asserts defamation claims against The New York Daily News ("The News"); The New York Times ("The Times"); News Corp. ("The holding company of the New York Post"); The Associated Press ("A.P."); and WPIX 11 News ("WPIX") Akassy v. N.Y. Daily News, et, al., No. 14-CV-1725(LAP); Akassy v. N.Y. Times, et. al., No. 14-CV-2499(LAP); Akassy v. News Corp., et. al., No. No. 14-CV-2589(LAP); Akassy v. PIX 11 News, et. al., No. 14-CV-3186(LAP); Akassy v. The Associated Press, et. al., No. 14-CV-3213(LAP). Annexed hereto as EXHIBIT D are excerpt order copies.

4. District Judge Preska held that: "First, Mr. Akassy has not identified any credible evidence [sic] supporting his theory that the indictment was falsified, forged, or otherwise improper."

5. District Judge Preska held that: "Second, as Magistrate Judge Parker correctly found, Mr. Akassy's arguments [sic] targeting the indictment concern the grand jury proceedings and provide no basis for habeas corpus relief. (See dkt. no. 73 at 41-42); see also, e.g., *Lopez v. Riley*, 865 F. 2d 30, 32 (2nd Cir. 1989) ("if federal grand jury rights are not cognizable on direct appeal where rendered harmless by a petit jury, similar claims concerning a state grand jury proceeding are a fortiori foreclosed in collateral attack brought in a federal court."))."

6. District Judge Preska held that: "Alongside his arguments regarding the indictment, Mr. Akassy makes [sic] scattershot objections to virtually every conclusion reached by Magistrate Judge Parker. (See dkt. no. 74.)."

7. District Judge Preska held that: "The Court has reviewed his arguments and the Report and Recommendation de novo and finds Magistrate Judge Parker's resolution of the issues to be thorough, ~~well grounded in the law, and correct. the Court therefore adopts~~ the Report and Recommendation in its entirety [sic]."

8. In foot-note(1), District Judge Preska held that: "Mr. Akassy has two other [sic] pending motions, both of them merittles. The first asks the Court to strike all of Magistrate Judge Parker's orders because she purportedly 'impersonat[ed] Court of Appeals Judge Barrington D. Parker Jr. in ordering that certain materials be placed under seal. (Dkt no. 89). But the subject order is

clearly signed by Magistrate Judge Parker (see dkt. no. 32), and any confusion on the docket sheet regarding the signatory of that order was the result of an error that has since been corrected."

9. District Judge Preska held in the same foot-note that:

"Mr. Akassy's second motion seeks review of Magistrate Judge Parker's order denying his motion for [sic] recusal. (See dkt. no. 87, 90.) Mr. Akassy's arguments for recusal, however, are either bald assertions of bias or gripes about Magistrate Judge Parker's decisions against him, neither of which provide a basis for recusal. See PaineWebber Inc. v. Nwogugu, No. 98 Civ. 2441 (DLC), 1998 WL 912062, at *2 (S.D.N.Y. Dec. 30, 1998) ("A recusal motion will not be granted where the movant asserts only conclusion allegations that a judge is biased..."); Liteky v. United States, 510 U.S. 540, 555 (1994) ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion."). Mr. Akassy's motions are therefore denied."

**PETITIONER'S OBJECTION TO DISTRICT JUDGE PRESKA'S
JULY 16, 2020 ORDER DISMISSING HIS PETITION FOR A
WRIT OF HABEAS CORPUS**

POINT 1: State Trial Court Judge Lacked Jurisdiction

I respectfully object to District Judge Preska's July 16, 2020 order, which was not published as case law for public interest, because it was selective, inaccurate, factually incorrect and was based upon the lack of subject matter jurisdictions of both state trial Court of Claims Judge Jill Konviser and United States Magistrate Judge Katharine H. Parker on my petition for writ of habeas corpus, as follows:

I respectfully object to District Judge Preska's charges (re:

Statement of Facts No.1) because there was only a single felony count of alleged indictment of rape in the first degree on trial, and no additional counts of "harassment and other offenses," before the official trial Judge Carol Berkman in Court Part 71, on September 7, 2011 and October 5, 2011. (See Dkt. No. 11, Akassy Decl. Ex. 23 Certificate Granting Leave C.P.L. § 460.15; Dkt. No. 72 at Excerpt trial transcript minutes in Attachment Ex. A, Emergency Motion for Evidentiary Hearing; Dkt. Nos. 55, 59 Criminal Record Rap-Sheet at 7-13; Dkt. No. 57 Respondent's July 21, 2017 Letter in Response to Dkt. Nos. 55, 59, which was suppressed and sealed by Magistrate Judge Parker within Dkt. Nos. 56, 57; see also, Annexed hereto as EXHIBIT E excerpt true copies of trial proceedings transcript minutes, submitted herewith. Accordingly, District Judge Preska's July 16, 2020 order should be reversed in its entirety.

POINT 2: Magistrate Judge Katharine H. Parker Lacked Jurisdiction On Petitioner's Petition for Writ of Habeas Corpus

I respectfully object to District Judge Preska's approval of Magistrate Judge Parker's "carefully reasoned 63-page Report and Recommendation recommending that Mr. Akassy's petition be [dismissed] in its entirety" (re: St. of Facts No.2) because Magistrate Judge Parker lacks subject matter jurisdiction on my petition for writ of habeas corpus. My habeas corpus was officially assigned to United States Magistrate Judge Andrew J. Peck, on September 28, 2016, by the United States District Court for the Southern District of New York, not to Magistrate Judge Parker, and Magistrate Judge Peck never expressed any incapacity to refuse my case. (See Dkt. Nos. 9, 23, 102 at 6-7 Attachment Ex. B; Dkt. No. 74 at 4 Objection to

Magistrate Judge Parker's "Notice of Redesignation to Another Magistrate Judge and Report and Recommendation; Dkt. Nos. 82, 86, 89, 90, Ethics Violation Complaint).

Pursuant to Federal Code Annotated 28 U.S.C.A. § 636, Jurisdiction, Powers and Temporary Assignment, Magistrate Judge Parker lacks subject matter jurisdiction on my petition for writ of habeas corpus, and District Judge Preska erred to omit in her July 16, 2020 order my Ethics Violation Complaint to remove Magistrate Judge Parker from my case. (See Dkt. Nos. 82 & 86, id.).

Magistrate Judge Peck, upon his assignment on my petition for writ of habeas corpus, moved to send me the "Court Individual Practices of Magistrate Judge Andrew J. Peck" requirements on how to proceed with his court. Annexed hereto as EXHIBIT F are true copies of the court's assignment order and "Individual Practices of Magistrate Judge Andrew J. Peck," submitted herewith. I never received such order with regard to Magistrate Judge Parker. And when I requested the copy of order of the "Notice of Redesignation to Another Magistrate Judge, dated 01/09/2017," and other orders of District Judge Preska and Magistrate Judge Parker, the Clerk of the Court asked me to pay in order to obtain them in a letter dated February 24, 2017. (See Dkt. No. 102 at 14, Attachment Ex. C, id.). (see also EXHIBIT C, id.)(see also Respondent, the Attorney General of the State of New York's Notice of Appearance indicating District Judge Loretta A. Preska and Magistrate Judge Andrew J. Peck, "16-CV-7201(LAP)(AJP)" as solely official judges assigned on my pro se petition for writ of habeas corpus, Dkt. No. 14).

PROSECUTORIAL MISCONDUCT AND INEFFECTIVE ASSISTANCE
OF COURT-APPOINTED COUNSEL GLENN F. HARDY

POINT 3: The Prosecutors' Indictment(s) and True Bill No. 03884/10
on a 24-count were Fageries, Fake, Fraudulent Documents
and a Constructive Amendment of Indictment in Violation
of State and Federal Constitutions

I respectfully object to District Judge Preska's dismissal (re: St. of Facts Nos. 4, 5, 6) that "First, Mr. Akassy has not identified any [credible] evidence supporting his theory that the indictment was falsified, forged, or otherwise improper," because I crystal clear "identified" that the prosecutors and my court-appointed counsels (including my first court-appointed counsel Howard David Simmons, who was dismissed) committed serious misconduct to force me to trial in the Court of Claims of Judge Jill Konviser with a lack of jurisdiction, with an indictment and true bill documents that was known to all to be a forgery, perjury, fraudulent and constructed in violation of state and federal constitutions. (See Dkt. No. 72 Emergency Evidentiary Hearing, Ex.A, id.; Dkt. Nos. 56, 57 Respondent's July 21, 2017 Letter, id.; see also EXHIBIT E excerpt copies of trial transcript minutes, id.).

My compelling claim has nothing to do with "the grand jury [proceedings]," but that the grand jury dismissed the People's trumped-up case of rape in the first degree, as decided on August 16, 2010, and that the prosecutors, Assistant District Attorneys Jessica Troy and Emily Auletta and their boss New York County District Attorney Cyrus R. Vance Jr., moved to submit a Constructive Amendment of an indictment on a 24-count, including 6 felonies already dismissed by the grand jury. (See Dkt. No. 11, as "sealed"

docket no. of Akassy Declaration Nos. 5, 40, 41, 42, 43, 44, 45, 46; Akassy Decl. No. 42 at Ex. D, id., shows trial proceedings transcript minutes at pages 1323-1324 at 9, stating "At the end of the day, this case is, as you argued or I should say as you opened, one of rape, criminal sexual act and stalking. That's how you [billed] this case," Court of Claims Judge Konviser said it to the prosecutors and my court-appointed counsel Mr. Hardy, who failed to file a motion to dismiss the case. Annexed hereto as EXHIBIT G are true excerpt copies of the trial transcript minutes, submitted herewith).

**PENDING MOTIONS UNDECIDED AND CONFLICTING DECISIONS
BETWEEN DISTRICT JUDGE PRESKA AND MAGISTRATE JUDGE
PARKER ON MY PETITION FOR WRIT OF HABEAS CORPUS**

POINT 4: Conflicting Orders and Misfeasance

I respectfully object to District Judge Preska's decisions (re: St. of Facts' Foot-note) on my "pending motions" because they are inaccurate and factually incorrect. First and foremost, I do not have only "two other pending motions," but up to 13 pending motions as follows:

. Motion for Permission to Submit a 60-page Pro Se Brief in ~~Support of Petition for Writ of Habeas Corpus, which was not clearly~~ decided. (See Dkt. Nos. 6, 9).

. Motion to Seal Certain Exhibits and Court Record, which was denied by District Judge Preska (see Dkt. Nos. 10, 19), but was overruled by Magistrate Judge Parker upon Respondent's request. (See Dkt. Nos. 32 & 32, which was credited to U.S. Court of Appeals Judge Barrington D. Parker before it was "modified" after I wrote a letter dated April 15, 2019, to the Clerk of this Court.

Annexed hereto as EXHIBIT H are true copies of the District Court Docket Sheets one showing U.S. Court of Appeals Judge Barrington D. Parker's signature at Dkt. No. 32, and the other showing the sealing of my exhibits and other information by Magistrate Judge Parker, submitted herewith.

- . Motion to obtain print copies of the District Court's orders on my habeas corpus (Dkt. No. 36).

- . Petitioner's Response to Respondent's Declaration in Support of Motion for "Sealing Order," re: of Appendix Declaration of Hugues-Denver Akassy (Dkt. Nos. 11, 37, 41).

- . Motion for Reconsideration on Respondent's Motion to Seal Petitioner's Writ of Habeas Corpus Brief (Dkt. Nos. 32, 45, 46, 47, 48, 49, 50), as Magistrate Judge Parker overruled District Judge Preska's order (Dkt. Nos. 19, 32, id.).

- . Letter-as-Motion Seeking Permission to Amend Complete Rap-Sheet as Court Evidence in Response to Respondent's July 21, 2017 Letter on Exculpatory Grand Jury True Bill of Indictment No. 03884/2010, proving that the prosecutors' charging documents were fraudulent and a forgery (Dkt. Nos. 55, 59).

- . ~~Motion Requesting an Emergency Evidentiary Hearing to be~~
Released from False Imprisonment, because the state criminal court record truly reveals that both the grand jury and trial judge Carol Berkman dismissed the prosecutors' trumped-up case of rape in the first degree and the forged true bill of indictment on a 24-count, etc. (Dkt. No. 72, id.).

- . Motion for Subpoena to Compel the New York County District Attorney's Office to Produce Petitioner's Official Press Credentials

and News Assignment Video tapes (Dkt. No. 75).

. Response in Opposition to Motion 75, Motion for Subpoena to Compel the New York District Attorney's Office to Produce Petitioner's Official Press Credentials and News Assignment Video tapes (Dkt. No. 77).

. Motion (reply affirmation) to Dismiss Respondent's Opposition to Petitioner's Writ of Habeas Corpus for Failing to Answer to Compelling Facts and Exculpatory Grand Jury Verdict Evidence Materials Submitted; re: 38 Memorandum of Law in Opposition (Dkt. No. 80).

. Petitioner's Objection to Magistrate Judge Parker's Published Decision on Subpoena to Compel the New York County District Attorney's Office to Produce Petitioner's Official Press Credentials and News Assignment Video tapes; re: 79 Memorandum and Opinion (Dkt. No. 81)(see Akassy v. Kirkpatrick, WL 125947, S.D.N.Y. (Jan. 8, 2019)).

. Ethics Violation Complaint filed against Magistrate Judge Parker (Dkt. No. 82), addressed to District Judge Preska to remove Magistrate Judge Parker from my case with a lack of subject matter jurisdiction (Dkt. Nos. 82, 83, 86, id.).

. On Appeal from Magistrate Judge Parker's Failure to Answer Petitioner's Ethics Violation Complaints, lack of jurisdiction, etc., and her dismissal of my Ethics Violation Complaints without answer and service (Dkt. No. 87)(see also, Dkt. Nos. 82, 83, 85, 86, 89, 90, id.).

. Motion for Change of Venue, to transfer my petition for writ of habeas corpus to the United States District Court for the

District of Columbia in Washington, D.C., due to serious misfeasance and misconduct by Magistrate Judge Parker and the Clerk of the Court's failures to have me served the District Court's orders (Dkt. No. 102, id.).

District Judge Preska erred not to fully address each of the "pending motions" above as respectfully submitted. Instead, District Judge chose to defend Magistrate Judge Parker's ethics violation and lack of subject matter jurisdiction on my pro se petition for writ of habeas corpus.

Second, I respectfully object to District Judge Preska's decision that "Mr. Akassy's arguments for recusal, however, are either bald assertions of bias or gripes about Magistrate Judge Parker's decisions against him," because as I mentioned it above, Magistrate Judge Parker's decisions were not only truly biased and prejudicial to me as a black man, but she clearly lacks subject matter jurisdiction on my pro se petition for writ of habeas corpus among other misfeasances (see Dkt. Nos. 82, 86, 89, 90, id.). Magistrate Judge Parker's "sealing order" was not "the result of an [error] that has since been corrected," as erred District Judge Preska, but an act of misfeasance and misconduct because the "sealing order" still overrules a district judge's order by a Magistrate Judge; and because it takes a United States Court of Appeals Judge to overrule a United States District Judge, Magistrate Judge Parker chose an identical last name "Parker" as hers with U.S. Court of Appeals Judge Barrington D. Parker for the signature of her order (Dkt. No. 32, id.) in order to overrule District Judge Preska's order (Dkt. No. 19, id) and making me

believe that such overruling's author was a U.S. Court of Appeals Judge as I moved to file a motion in opposition to order (Dkt. No. 32, id.) with this Court. Furthermore, Magistrate Judge Parker's ruling remains to this day as another conflicting decisions. (See EXHIBIT H, id., showing one docket sheet dated 2/22/2019, "signed by (U.S. Court of Appeals) Judge Barrington D. Parker on 2/10/2017), and the other docket sheet dated 4/19/2019, showing the "sealing order" of my habeas corpus' exhibits, including several important information from me and public interest, as submitted herewith.

**CONTEMPT OF COURT AND SABOTAGE OF PETITIONER'S
PRO SE PETITION FOR WRIT OF HABEAS CORPUS, AND
REQUESTING A CHANGE OF VENUE REVIEWING DE NOVO**

**POINT 5: Petitioner was Prejudiced by Magistrate Judge Parker's
Lack of Jurisdiction and the Clerk of Court's Lack of
Services of the Court's Orders**

The sabotage of my pro se petition for writ of habeas corpus is not an isolated incident but a history of a blatant misfeasance and serious misconduct as follows:

On September 28, 2016, the United States District Court for the Southern District of New York, assigned my habeas corpus to both U.S. District Judge Loretta A. Preska and U.S. Magistrate Judge Andrew J. Peck (Dkt. 9, 23, id., see also, EXHIBIT F, id.).

On January 6, 2017, District Judge Preska issued an order (Dkt. No. 19, id.) directing the "Clerk of the Court is directed to terminate it (ECF Doc. 10.)" to unseal my motion to "seal certain exhibits and court record (Dkt. No. 10, id.).

On January 6, 2017, District Judge Preska ordered "the Clerk of the Court for [assignment] to a Magistrate Judge for habeas

corpus. Referred to Magistrate Judge Andrew J. Peck," (Dkt. No. 23, id.)

But in a blatant contempt of court, the Clerk of the Court violated District Judge Preska's orders to allow a newly appointed Magistrate Judge Parker to hijack my petition for writ of habeas corpus, in order to gut my exculpatory grand jury verdict evidence materials, and moved to issue a blatant distortion of the compelling facts in her slanderous-smut Report and Recommendation dated December 17, 2018 (Dkt. No. 73, id.) with a lack of subject matter jurisdiction, which I moved to object in their entirety on December 17, 2018 (Dkt. No. 74, id.). The Report and Recommendation were a cut-and-paste from the Volunteer Assistant Attorney General of the State of New York, Margaret Ann Cieprisz, Respondent's Reply Memorandum of Law in Opposition to my habeas corpus brief (Dkt. No. 38), from about 90-page. Then, Magistrate Judge Parker moved to issue a "sealing order" overruling District Judge Preska, in order to keep off state criminal records from public access, as the grand jury and the official trial Judge Carol Berkman dismissed the prosecutors' trumped-up case of rape in the first degree and ~~the fake "true bill of indictment on a 24-count,"~~ on August 16, 2010 and October 5, 2011.

Following my letter dated April 15, 2019 (see Dkt. No. 89, id.) to Ms. Catherine O'Hagan Wolfe, Clerk of this Court, the Clerk of the District Court, Mr. Rudy Krajick and Magistrate Judge Parker moved to "modified" the false docket sheet record on April 18, 2019, as "Signed by Magistrate Judge Katharine H. Parker on (2/10/2017) (cla)(Modified on 4/18/2019(anc)(Entered: 02/10/2017," (Dkt. No. 32).

On December 27, 2018, I moved to file a motion for subpoena to compel New York County District Attorney's Office to produce my official press credentials and news assignment video tapes, with District Judge Preska, in order to recover the illegal search and seizure of properties, in violation of my First and Fourth Amendments Freedom of the Press, and to be identified as a professional foreign French freelance journalist, as I was maliciously misrepresented by the prosecutors and New York media in courts and in the court of public opinion as "fake" in order to assassinate my character and obfuscate the truth about an unprecedented serious misconduct and misfeasance by prosecutors, police, court-appointed counsels, court staff and state judges. (Dkt. No. 75, id.).

But on January 8, 2019, the Clerk of the Court, once again, allowed Magistrate Judge Parker to overreach her position of power to hijack my subpoena from District Judge Preska, in order to cut-and-paste the entire response in opposition to my subpoena of the Volunteer Assistant Attorney General of the State of New York, Margaret Ann Cieprisz (Dkt. No. 77), and to be unfairly published ~~as a case law in an Opinion and Order, which misquoted me as~~ "a fake journalist." (Dkt. No. 79)(See Akassy v. Kirkpatrick, WL 125947, S.D.N.Y. (Jan. 8, 2019). My objection in motion (Dkt. No. 81) to ask District Judge Preska to delete Magistrate Judge Parker's illegal publishing Opinion and Order from the District Court's Web Site was overlooked by District Judge Preska in her July 16, 2020 order dismissing my habeas corpus.

All decisions made by Magistrate Judge Parker on my petition

for habeas corpus were first drafted by the Volunteer Assistant Attorney General of the State of New York, and then cut-and-pasted by Magistrate Judge Parker, as most of her controversial decisions were never served to me in the process.

The Clerk of the Court has not published the District Court's July 16, 2020 order (Dkt. No. 97, id.) dismissing my habeas corpus, but had Magistrate Judge Parker's Opinion and Order with lack of jurisdiction on my subpoena to remain published so to avoid any conflicting opinions and orders between District Judge Preska and Magistrate Judge Parker on the court's Web Site.

The Clerk of the Court and Magistrate Judge Parker's actions amounted to un-acceptable interference with the rule of law and the court's judicial proceedings. Therefore, I respectfully ask this Court to grant my Certificate of Appealability and review de novo my petition for writ of habeas corpus, and order a change of venue by transferring my case to another jurisdiction - the United States District Court for the District of Columbia - in Washington, D.C., in the interest of fairness and justice.

**DISTRICT JUDGE PRESKA'S OMISSIONS OF PETITIONER'S
SUBSTANTIAL CONSTITUTIONAL CLAIMS RAISED IN
~~PETITION FOR WRIT OF HABEAS CORPUS~~**

**POINT 6: District Judge Preska Overlooked Petitioner's
Substantial Constitutional Claims**

I respectfully object to District Judge Preska's July 16, 2020 Order-conclusion that "because Mr. Akassy has not made a substantial [showing] of a constitutional right, no certificate of appealability will be granted," because I did show major "substantial" constitutional right violation in my petition for writ of habeas corpus' brief, motions, reply motions and objection to Magistrate

Judge Parker's Report and Recommendation, as follows:

on Double Jeopardy protection violation, the grand jury and the official trial judge dismissed the prosecutors' constructive 24 counts of indictment as well as the signed true bill check-marked on a 4-count, on August 16, 2010 and October 5, 2011, see Akassy Decl. Ex.6, Dkt. No. 11; see also, Reply Memorandum of Law in Further Support of Petition for Writ of Habeas Corpus, Dkt. No. 51 at 5-15; see also Objection to Report and Recommendation, Dkt. No. 74 at 12-15; Sixth Amendment Constitution violation.

On Confrontation Clause violation, the alleged rape victim flew back home to Russia to cut off all communications with the prosecutors and police to disappear without a trace and was no-show at my trial in the Court of Claims of Judge Jill Konviser with a lack of subject matter jurisdiction. See trial transcript minutes of an untimely "Missing Witness Argument" maliciously requested after the defense rested by my court-appointed counsel Glenn F. Hardy, EXHIBIT G, id., T. 1324-1390; Sixth Amendment Constitution violation. (see also Reply Memorandum of Law in Further Support of Petition for Writ of Habeas Corpus, Dkt. No. 51 at 15; Brief of Habeas Corpus, Dkt. No. 2 at 41-43; Objection to Report and Recommendation, Dkt. No. 74 at 6.).

on Illegal Search and Seizure, the prosecutors and police used a fake indictment to perfect-trumped-up search warrant reports in order to seize broad items, including journalistic television production gear, news assignment video tapes, electronic devices, home furniture, business attires, immigration documents, etc., in

violation of my First and Fourth Amendment Constitution rights.

(See Brief of Habeas Corpus, Dkt. No. 2 at 43-45; Objection to Report and Recommendation, Dkt. No. 74 at 8).

On Prosecutorial Misconduct, the prosecutors violated my First, Fourth, Fifth, Sixth and Fourteenth Amendments rights, equal protection of law, due process, by taking me to trial on trumped-up charges, fraudulent court documents and on indictments and true bill that were known to be forgeries. (See Brief of Habeas Corpus, Dkt. No. 2 at 45-48; Reply Memorandum of Law in Further Support of Petition for Writ of Habeas Corpus, Dkt. No. 51 at 5-12; Objection to Report and Recommendation, Dkt. No. 74 at 17-20, id.).

On Constructive Amendment Indictment, (see Dkt. No. 94 at 3) and on Ineffective Assistance of Counsel, (see Brief of Habeas Corpus, Dkt. No. 2 at 49-52). My defense counsel, willfully, deliberately and intentionally, conspired with New York County District Attorney's Office to violate my First, Fourth, Fifth, Sixth and Fourteenth Amendment rights, equal protection of law, due process and fair trial guaranteed by the Constitution of the United States of America.

~~Mr. Hardy conspired with the malicious prosecutors to force~~
me to trial despite my strong repeated objections in the Court of Claims of Judge Konviser with a lack of subject matter jurisdiction and a trumped-up charge of rape in the first degree, whose "indictment" on a 24-count was truly known to all to be a forgery, fabricated and constructed and dismissed by both the grand jury and my official trial Judge Carol Berkman on August 16, 2010 and October 5, 2011.

In People v. Wayne Greeta, 72 N.Y. 2d 489, 531 N.E. 2d 279,

534 N.Y.S. 2d 647 (1988), the New York State Court of Appeals' analysis begins with the state constitutional provision that "[n]o person shall be held to answer for a Capital or otherwise infamous crime unless on indictment of a Grand Jury." (N.Y. Const. Art. 1 & 6; see also, C.P.L. 210.05). The Constitution further provides that an accused "shall be informed of the nature and cause of the accusation." (Id; see also, C.P.L. 200.50).

An indictment serves three important purposes. "First and foremost, an indictment provid[es] the defendant with fair notice of the accusation against him, so that he will be able to prepare a defense." *People v. Lannome*, 45 N.Y. 2d 589, 594. "Second, the indictment prevents the prosecutors from usurping the powers of the grand jury by ensuring that the crime for which defendant is tried is the same for which he was indicted, 'rather than some alternative seized upon by the prosecution in light of subsequently discovered evidence.'" *id.* See also, *Russell v. United States*, U.S. 749, 770. "Finally, an indicment prevents later retrials for the same offense in contravention of the constitutional prohibition against double jeopardy." (*People v. Lannome*, *Supra*, at 595).

~~The Fifth Amendment of the Constitution of the United States~~
guarantees the right to indictment by a grand jury on felony charges. Thus, "after an indictment has been returned its charges may not be broadened except by the grand jury itself." *Stirone v. United States*, 361 U.S. 212, 215-16, 80 S. Ct. 270, 4 L. Ed. 2d 252 (1960). A court "cannot permit a defendant to be tried on charges that are not made in the indictment against him." (*Id.* 361 U.S. at 217, 80 D. Ct. 270). But here in my state "criminal" case, the 24 counts submitted by the prosecutors and my defense counsel

to the jury trial were totally fabricated and constructed.

A Constructive Amendment of an indictment "occurs when the charging terms of the indictment are altered, either literally or in effect, by prosecutor or court after the grand jury has last passed upon them." United States v. Zingaro, 858 F. 2d 94, 98 (2nd Cir. 1988)(quoting Gaither v. United States, 413 F. 2d 1061 (D.C. Cir. 1969)). "As such, a Constructive Amendment is per se violation of the Fifth Amendment." United States v. Delano, 55 F. 3d 720, 729 (2nd Cir. 1995). "To prevail on a Constructive Amendment claim, a defendant must demonstrate that either the proof at trial or the trial court's jury instructions so altered an essential element of the charge that, upon review, it is uncertain whether the defendant was convicted of conduct that was the subject of the grand jury's indictment." United States v. Frank, 156 F. 3d 332, 337 (2nd Cir. 1998)(per curiam)(citing Zingaro, 858 F. 2d at 98). "In determining whether an 'essential element' of the offense has been modified, moreover, we have 'consistently permitted significant flexibility in proof provided that the defendant was given notice of the core of criminality to be proven at trial.'" ~~Delano, 55 F. 3d at 729 (quoting United States v. Patino, 962 F. 2d 263, 266 (2nd Cir. 1992)(internal quotations omitted).~~

Again, here in my state "criminal" trial case, the indictment and true bill and the bill of particulars did not provide me with fair notice of the charges against me, and the prosecutors and my defense counsel's theories at trial were not the same as that charged in the indictment which was already dismissed by the grand jury on August 16, 2010. Inasmuch as the indictment did not provide

me with fair notice of the accusations against me and that the prosecutors and my defense counsel's theories at trial were not the same in all material respect to that charged in the indictment, (see state records and rap-sheet as EXHIBIT E, id.), prosecutorial misconduct, ineffective assistance of counsel and reversal with a dismissal of indictment are required here.

"An indictment is constructively amended when the proof at trial broadens the basis of conviction beyond that charged in the indictment." *United States v. Miller*, 471 U.S. 130, 144-45, 105 S. Ct. 1811, 1819-20, 85 L. Ed. 2d 99 (1985). "Constructive Amendment of an indictment is per se violation of the Grand Jury Clause of the Fifth Amendment." *United States v. Zingaro*, 858 F. 2d 94, 98 (2nd Cir. 1988). "However, an impermissible alteration of the charge must affect an essential element of the offense." *United States v. Weiss*, 752 F. 2d 777, 787 (2nd Cir.) (Cert. denied, 474 U.S. 944, 106 S. Ct. 308, 88 L.F.D. 2d 285 (1985)), "and we have consistently permitted significant flexibility in proof, provided that the defendant was given notice of the 'core of criminality' to be proven at trial." *United States v. Heimann*, 705 F. 2d 662, 666 (2nd Cir. 1983) (citing *United States v. Sindona*, 636 F. 2d 792, 797-98 (2nd Cir. 1980) (Cert. denied, 451 U.S. 912, 101 S. Ct. 1984, 68 L. Ed. 2d 302 (1981)).

"Due process is violated when a prosecutor permits a defendant to stand trial on an indictment which he knows is based on perjured material testimony." *U.S. v. Basurto*, 497 F. 2d 781 (9th Cir. 1974).

"A prosecutor in such case is under a duty to notify the court and the jury to correct the 'cancer of justice.'" *Basurto* 497 F. 2d at

785).

"When a prosecutor through nondisclosure affirmatively deceives the grand jury, in effect transforming exculpatory evidence into inculpatory evidence, courts have invalidated resulting indictments. Cases of deliberate deception reasonably invite the sanction of dismissal." U.S. v. DeMarco, 401 F. Supp. 505 (C.D. Cal. 1975) (judgment aff'd. 550 F. 2d 1224, 77-1 U.S. Tax. Cas. (CCH) P. 9354, 39 A.F.T.R. 2d 77-1361 (9th Cir. 1977)). "But even intences of nonwillful deception have impelled courts to examine the effect of the prosecutor's action rather than his motive."

"The use of perjury as a weapon, whether active or passive, and whether by prosecution or defense, must be severely condemned." Swartz v. State, 506 N.W. 2d 792 (1993). This Court held that "Due process violation occurs if state leaves conviction in place after [credible] recantation of material testimony; perjured testimony that will trigger due process violation must leave court with firm belief that, but for perjured testimony defendant would most likely not have been convicted." Sanders v. Sullivan, 863 F. 2d 218 (2nd Cir. 1988). U.S.C.A. Const. Amend. 14.

~~DISTRICT JUDGE PRESKA ERRED NOT TO ORDER
EVIDENTIARY HEARING ON EXCULPATORY GRAND
JURY VERDICT MATERIAL IN FAVOR OF DEFENDANT~~

POINT 7: District Judge Preska's July 16, 2020 Order
Violates Habeas Corpus Law Under A.E.D.P.A.

Pursuant to 28 U.S.C. § 1746, for state prisoners, under the Anti-terrorism Effective Death Penalty Act (A.E.D.P.A.), the court reviewing a habeas corpus petition is required to assume the facts as found by the state court. This means that the habeas corpus court must make its judgment on the habeas corpus petition based on the

version of the facts that the state trial court found to be true. However, after receiving the petition, answer, and traverse, the habeas court may choose to hold evidentiary hearing on facts that were not fully "developed" in state trial court. Facts that are not fully developed are those that are still in dispute. The habeas court's decision to hold a hearing may depend on why the facts were not developed in the trial court. In other words, whether a hearing will be held may be affected by a) whether some error for which Petitioner is responsible prevented the development of the facts, or b) whether the state's error prevented the factual development.

Relying upon the inaccurate information from the state trial court records, then-Chief Judge for the United States District Court for the Southern District of New York, District Judge Preska, in her Opinion and Order decision dismissing sua sponte summary my pro se Complaints for defamation against some of New York news organizations with regard to my "criminal" case, held that "Plaintiff was indicted in New York State Supreme Court, New York County, for crimes against [several women]." (See EXHIBIT D, id.).

~~But when confronted with compelling and irrefutable facts proving~~

her wrong, District Judge Preska abstained to repeat her claim in her July 16, 2020 Order without an evidentiary hearing, but now holds that I "filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging [his] conviction in New York State Supreme Court for rape, harassment, and other offenses."

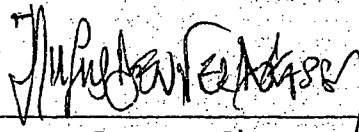
Accordingly, I respectfully ask this Court to order evidentiary hearing "on facts that were not fully [developed] in state trial court," such as grand jury verdict, lack of jurisdiction of Court of

Claims Jill Konviser, police and prosecutorial misconduct, court-appointed counsel's misconduct and ineffective assistance of counsel.

For the reasons set forth, I respectfully ask this Court to grant my Certificate of Appealability and further relief as this Court may seem just and proper.

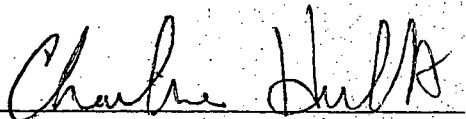
Dated: October 6, 2020
Alden, New York

Respectfully submitted,



Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN #: 11 A 5580
Wende Corr. Facility
3040 Wende Rd., P.O. BOX 1187
Alden, New York 14004-1187

SWORN TO BEFORE ME
This 10 day of October, 2020


NOTARY PUBLIC

Charlene C. Mullett
Notary Public, State of New York
No. 01HU8391978
Qualified in Erie County
My commission expires May 20, 2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK MOYNIHAN UNITED STATES COURTHOUSE
OFFICE OF THE CLERK
500 PEARL STREET
NEW YORK, NEW YORK 10007-1312

Ruby J. Krajick
CLERK

February 24, 2017

Hugues-Denver Akassy
Din: 11-A-5580
Clinton Correctional Facility
PO Box 2001
Dannemora, NY 12929

Re: 16cv7201

Dear Sir:

We have received your correspondence requesting a document(s) in the above referenced case. The statutory fee for copy work is \$.50 per page including docket sheets. Since your case is still open, the Pro Se Department will mail you a docket sheet. Following are your charges for the Orders you requested.

Doc. #

16	3 pages	\$1.50
18	2 pages	1.00
19	2 pages	1.00
23	1 page	.50
25	2 pages	1.00
27	5 pages	2.50
31	2 pages	1.00
32	2 pages	<u>1.00</u>

Total Due \$9.50

Sincerely,
Records Management
Room 270

CERTIFIED CHECK or MONEY ORDER payable to the "Clerk of Court, SDNY" is the only method of payment we accept.

PLEASE RETURN A COPY OF THIS LETTER WITH YOUR REMITTANCE.
Thank You.

United States Court of Appeals for the Second Circuit
In the Matter of Akassy v. Kirkpatrick, Docket No. 20-3246

C E R T I F I C A T E O F S E R V I C E

I, Hugues-Denver Akassy, the Petitioner in this action, declare under penalties of perjury that on this 12 day of October, 2020, I placed 2 copies of this Petitioner's Statement of Facts and Laws in Support of a Certificate of Appealability of Docket No. 16-CV-7201(LAP), into the Mailbox of the Wende Correctional Facility, via United States Mail, to Ms. Catherine O'Hagan Wolfe, Clerk of the Court, United States Court of Appeals for the Second Circuit, Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, N.Y. 10007; and to Ms. Letitia James, Attorney General of the State of New York, 120 Broadway, New York, N.Y. 10271-0332.

By: 

Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN #: 11 A 5580
Wende Correctional Facility
3040 Wende Rd., P.O. BOX 1187
Alden, New York 14004-1187

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 20-3246

Caption [use short title]

Motion for: Evidentiary Hearing / Cert. of Akassy v. Kirkpatrick

Appealability

Set forth below precise, complete statement of relief sought: In re. of Certificate of Appealability, Petitioner moved to ask the Court to hold evidentiary hearing on facts that were not fully "developed" pursuant to 28 U.S.C. § 1746, such as grand jury verdict, lack of jurisdiction of trial court, prosecutorial and court-appointed counsel misconduct, etc.

MOVING PARTY: Pro Se

☐ Plaintiff

☐ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

OPPOSING PARTY: N.Y.S. Attorney Gen. Office

MOVING ATTORNEY: Hugues-Denver Akassy

OPPOSING ATTORNEY: Margaret Ann Cieprisz

[name of attorney, with firm, address, phone number and e-mail]

DIN #: 11 A 5580

Volunteer Assistant Attorney General

Wende Correction Facility

28 Liberty Street

3040 Wende Rd., P.O. BOX 1187

New York, N.Y. 10005

Alden, New York 14004-1187

Court/Judge/Agency appealed from: Judge Loretta A. Preska, U.S. District Court, South. of N.Y.

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this Court?

☐ Yes ☐ No

Requested return date and explanation of emergency:

Opposing counsel's position on motion:

☐ Unopposed ☐ Opposed ☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☐ No ☒ Don't Know

Is oral argument on motion requested?

☒ Yes ☐ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes ☒ No If yes, enter date:

Signature of Moving Attorney:

Hugues-Denver Akassy
Hugues-Denver Akassy

Date: Oct. 31, 2020

Has service been effected? ☒ Yes ☐ No [Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT:

CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: _____

By: _____

RECEIVED
2020 NOV 9 AM 10:44
U.S. COURT OF APPEALS
CLERK'S OFFICE

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

CAPTION:

Akassy v.

Kirkpatrick

CERTIFICATE OF SERVICE

Docket Number: 20-3246

I, Hugues-Denver Akassy, hereby certify under penalty of perjury that on
(name)
November 2, 2020, I served a copy of Motion Information
(date)
Statement for Evidentiary Hearing, Certificate of Appealability
(list all documents)

by (select all applicable)* Via Wende Correctional Facility's Mailbox

- ☒ United States Mail
☐ Federal Express
☐ Overnight Mail
☐ Facsimile
☐ E-mail
☐ Hand delivery

RECEIVED
2020 NOV - 9 AM 10:44
CLERK'S OFFICE
U.S. COURT OF APPEALS

on the following parties (complete all information and add additional pages as necessary):
Margaret A. Cieprisz, Volunteer Assistant Attorney General, New York
State Attorney General's Office, 28 Liberty St., New York, N.Y. 10005

Name	Address	City	State	Zip Code
Clerk's Office	US Court of Appeals, 2nd Cir., 40 Foley Sq., NY	NY	NY	10007

Name	Address	City	State	Zip Code
------	---------	------	-------	----------

Name	Address	City	State	Zip Code
------	---------	------	-------	----------

Name	Address	City	State	Zip Code
------	---------	------	-------	----------

November 2, 2020

Today's Date

Hugues-Denver Akassy
Signature

*If different methods of service have been used on different parties, please indicate on a separate page, the type of service used for each respective party.

Certificate of Service Form

APPENDIX A (4)

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: March 07, 2022
Docket #: 20-3246
Short Title: Akassy v. Kirkpatrick

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 16-cv-7201
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Preska
DC Judge: Parker

CASE STATUS UPDATE NOTICE

In response to your letter dated February 27, 2022 your appeal is currently pending. Your motion for certificate of appealability, for evidentiary hearing and your motion to strike all published decisions by the lower court are currently pending. Please note the attached copy of the docket sheet.

Inquiries regarding this case may be directed to 212-857-8512.

APPENDIX A (5)

United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: July 29, 2022
Docket #: 20-3246pr
Short Title: Akassy v. Kirkpatrick

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 16-cv-7201
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Preska
DC Judge: Parker

CASE STATUS UPDATE NOTICE

In response to your letter dated July 24, 2022, your appeal is dismissed. Any motion for reconsideration or reconsideration en banc should be filed no later than 08/04/2022. If no said motion is received by that date, the Court will issue the mandate on 08/11/2022. Please note the attached copy of the docket sheet.

Inquiries regarding this case may be directed to 212-857-8522.

RECEIVED ON 08/02/2022,
TWO days before 08/04/2022
COURT deadline!

APPENDIX A (6)

October 22, 2022

The Honorable Debra Ann Livingston
Chief Judge
Chamber of Debra Ann Livingston
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, N.Y. 10007

RE: Question of Concerns About The "Court's July 7, 2022 Order"
In the Matter of Akassy v. Kirkpatrick, Docket No. 20-3246

Dear Judge Livingston:

As my question in two letters to the Clerk of the Court, as to know if the decision by a three-judge panel dated July 7, 2022, including Your Honor, Circuit Judges José Cabranes and Raymond J. Lohier, Jr., on my Certificate of Appealability, motions for Evidentiary Hearing on Exculpatory State Grand Jury Verdict, and to Strike the Lower Courts' Published Erroneous Decisions on my case, was unanimous, or, which of the judges abstained, was not responded, I respectfully write to ask the Court this question of concern:

Did the Clerk of the Court, Catherine O'Hagan Wolfe, willfully go on her way on July 7, 2022, to make a decision to dismiss my Certificate of Appealability and motions, and to make the Order appears that it was made by the three-judge panel, as why she is no longer handling my case?

I strongly believe that the answer is yes, because it would be impossible, if not unreasonable, for this Honorable Court to violate its own precedent on constitutional laws and the Supreme Court's precedent on (1) constructive amendment of indictment, as I argued in my COA-brief at pages 19-23; (2) double jeopardy protection violation, as I argued in my COA-brief at pages 17-19, including (3) confrontation clause violation of an alleged missing witness of rape victim; (4) unreasonable searches and seizures; (5) prosecutorial misconduct; (6) court-appointed counsel's criminal acts and ineffective assistance of counsel; (7) lack of subject matter jurisdictions of both state trial Court of Claims Judge Jill H. Konviser and United States Magistrate Judge Katharine H. Parker on my pro se petition for writ of habeas corpus, see COA-brief at pages 6-8.

Furthermore, this is not the first time that Ms. Wolfe has violated her oath of office to go out of her way to make personal decisions to dismiss my cases. On April 10, 2020, Ms. Wolfe issued an Order to dismiss my immigration petition for rehearing en banc,

holding that "Petitioner, Hugues-Denver Akassy, [sic] filed a Petition for panel rehearing, or, in the alternative, for rehearing en banc. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing en banc. IT IS HEREBY ORDERED that the Petition is DENIED." But I never filed for a review of my Petition by "the active members of the Court," in this matter. It was a made-up assertion by Ms. Wolfe.

It is also important for this Court to know that my Direct Appeal was never decided by the five justices of the Appellate Division, First Department, but by Mr. Eric B. Schmacher and Margaret O. Sowah of the Clerk of the Court, on Dec. 8, 2015, after they were contacted by the Assistant Chief Counsel, Daniel W. Kelly of Immigration and Customs Enforcement and the corrupt Office of the Appellate Defender of Richard M. Greenberg, who then resigned from office when I informed the Federal Bureau of Investigation and the Justice Department, for serious misconduct by filing a racially-bias distorted brief on my behalf without my knowledge, consent, consultation nor approval, in order to have my Direct Appeal denied and affirmed my wrongful convictions of crimes I did not commit so to allow Mr. Kelly to proceed with my removal from the United States, and to burry the whole truth about serious prosecutorial misconduct and judicial interference to cover-up racial injustice.

And this happened after Associate Justice David Friedman, of the Appellate Division, First Department, on February 2, 2015, granted my Certificate Granting Leave Pursuant to C.P.L.sec.460.15, to consolidate it with the Direct Appeal on claims for defective indictment on a 24-count, prosecutorial and judicial misconduct, court-appointed counsel's criminal acts designed to secure wrongful convictions and ineffective assistance of counsel, unreasonable searches and seizures, and Court of Claims Judge Jill H. Konviser's lack of subject matter jurisdiction over my case already dismissed by the state grand jury on August 16, 2010 and by the official trial Judge Carol Berkman on October 5, 2011.

Mr. Kelly of the Immigration of Customs Enforcement, in violation of the Department's Policy, acknowledged in his November 2015 Motion for Continuance to Immigration Judge that he contacted the Clerk of the Court of the Appellate Division, First Department. Less than a month later, on December 8, 2015, my Direct Appeal was denied by "unanimous decision," according to the almost 2-page Order, by omitting to address my compelling claims for fake indictment on a 24-count, lack of subject matter jurisdiction of Court of Claims Judge Jill H. Konviser, prosecutorial and judicial misconduct, court-appointed counsel's criminal acts, police misconduct and unreasonable searches and seizures of my personal items, as well as my journalistic production gear, as Justice Friedman acknowledged in granting me Leave to appeal.

Mr. Greenberg of the Office of the Appellate Defender, in his brief to the Appellate Division, First Department, without my

compelling claims from my Certificate Granting Leave as ordered by Justice Friedman to be raised, viciously described me as "mentally ill [sic] to be deported" from the United States, with a distortion of the facts and laws.

The fictitious justices' names were only added on the 2-page Order to mislead people.

So it is crystal clear that knowing the serious misconduct by the Clerk of the Court of the Appellate Division, First Department, and the Clerk of the Court of the United States District Court for the Southern District of New York, Ms. Wolfe was willing to dismiss my habeas corpus and get me out of the Court.

It is clearly an abuse of power for the Clerk of the Court to hijack a case to be denied access to judges. It is an appalling involvement. This Court needs to acknowledge that. It was malicious, abuse of law and denial of access to judicial process.

Therefore, I respectfully ask, Your Honor, to remove Ms. Wolfe as the Clerk of the Court, and thank you very much for your consideration in this urgent matter.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN #: 11 A 5580
Green Haven Corr. Facility
P.O. BOX 4000
Stormville, New York 12582

Clerk of the Court
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, N.Y. 10007

cc: Enclosed

APPENDIX B

**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 9th day of November, two thousand twenty-two.

Hugues-Denver Akassy,

Petitioner - Appellant,

v.

Michael Kirkpatrick,

Respondent - Appellee.

ORDER

Docket No: 20-3246

Appellant, Hugues-Denver Akassy, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request as a motion for reconsideration, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the motion and petition are denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

Catherine O'Hagan Wolfe



**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 9th day of November, two thousand twenty-two.

Hugues-Denver Akassy,

Petitioner - Appellant,

v.

Michael Kirkpatrick,

Respondent - Appellee.

ORDER

Docket No. 20-3246

IT IS HEREBY ORDERED that the motions to amend and for clarification (docket entries 74 and 77) are DENIED as moot in light of the Court's order denying Appellant's motion for reconsideration *en banc*.

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court

APPENDIX B (1)

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Thurgood Marshall United States Courthouse
40 Foley Square, New York NY 10007
212.857.8585

DEBRA ANN LIVINGSTON
CHIEF JUDGE

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

August 10, 2022

Hugues-Denver Akassy
#11-A-5580
Wende Correctional Facility
P.O. Box 1187
Alden, NY 14004

Dear Mr. Akassy:

I write in response to the enclosed documents you are attempting to file, received in the Court on August 9, 2022. If you are attempting to file a judicial complaint, your documents do not conform to the *Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 USC § 351*.

If you wish to file a complaint against a judge, I have enclosed a copy of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, an official complaint form, and instruction sheet for your use in filing a judicial conduct complaint pursuant to 28 USC §§. 351-364.

Please note, your appeal documents for *Akassy v. Kirkpatrick*, Docket No. 20-3246, must be submitted separately, not combined with judicial conduct complaint documents. Judicial conduct matters are confidential and are not available to the public. See *Rules for Judicial-Conduct and Judicial-Disability Proceedings*, Rule 23.

Very truly yours,
Catherine O'Hagan Wolfe, Clerk of Court

By: D-KJ
Dina Kurot
Deputy Clerk

Enclosures: As Stated

APPENDIX B (2)

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

HUGUES-DENVER AKASSY,

Petitioner-Appellant,

v.

MICHAEL KIRKPATRICK,

Respondent-Appellee.

DOCKET No.: 20-3246

MOTION FOR FULL COURT MEMBERS
RE-HEARING EN BANC

PRO SE

BEFORE CHIEF JUDGE DEBRA ANN LIVINGSTON,
FOR THE SECOND CIRCUIT:

RECEIVED
2022 AUG 26 PM 3:31
U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT

Petitioner Asks For (1) Full Court Members Rehearing en Banc For Lack of Personal Jurisdictions of United States Magistrate Judge Katharine H. Parker and United States District Judge Loretta A. Preska on Petitioner's Writ of Habeas Corpus, And For (2) the Reassignment of United States Magistrate Judge Andrew J. Peck with Notice, Consent, and Reference of a Civil Action to a Magistrate Judge Pursuant to United States District Court for the Southern District of New York's Local Rules Under 28 U.S.C. §636(c) and Fed.R.Civ.P.73.

1. I, Hugues-Denver Akassy, the Petitioner-Appellant, pro se, in the above-captioned case, state the following to be true under penalties of perjury:

2. Having been served on July 12, 2022, the 3-judge panel of this Court's decision dated July 7, 2022, denying Petitioner's Certificate of Appealability (COA), Motion for Evidentiary Hearing on State Grand Jury Verdict Exculpatory Evidence Materials

in Favor of Petitioner, and Motion to Strike All Published Decisions by the Lower Courts for Lack of Subject Matter Jurisdiction, citing that "Appellant has not made a (sic) substantial showing of the denial of a constitutional right," Petitioner, now moves to seek for the Full Court Members Rehearing en Banc, and for the Reassignment of United States Magistrate Judge Andrew J. Peck with Notice, Consent, and Reference of a Civil Action to a Magistrate Judge Pursuant to Local R.28U.S.C. §636(c).

3. By Order dated December 7, 2020, United States Court of Appeals' Circuit Judge Raymond J. Lohier, Jr. granted Petitioner's oversized motion for certificate of appealability. (See Dkt. No. 34, Exhibit A).

4. The 3-judge panel erred to overlook Petitioner's substantial constitutional claims of facts, evidence materials and legal argument based on state and federal constitutional laws on double jeopardy violation, prosecutorial misconduct, state trial Court of Claims Judge Jill H. Konviser's lack of subject matter jurisdiction, constructive amendment of indictment, and ineffective assistance of court-appointed counsels. (See COA Brief at p. 19-23, Dkt. Nos. 13, 15). "The Court is obliged to construe pro se pleadings liberally, *Harris v. Mills*, 572 F. 3d 66, 72 (2nd Cir. 2009), and interpret them to raise the strongest claims that they suggests'," *Triestman v. Fed. Bureau of Prisons*, 470 F. 3d 471, 474 (2nd Cir. 2006)(internal quotation marks and citations omitted)(emphasis in original). Rule 8 of the Federal Rules of Civil Procedure, which requires a complaint to make a short and plain statement showing that the pleader is entitled to relief.

5. Issues Presented For Full Court Members Rehearing en Banc

Whether United States Magistrate Judge Katharine H. Parker's lack of subject matter jurisdiction on Petitioner's writ of habeas corpus amounted to misfeasance, corruption, distortion of the facts and laws, defamation, obstruction of justice, racial-bias and violates the United States District Court for the Southern District of New York's Local Rules of Civil Procedure under 28 U.S.C. §636(c), Jurisdiction, Powers and Temporary Assignment, and Fed.R.Civ.P.73, and violates Petitioner's Civil Rights, as well as his constitutional rights to due process?

Statement of Facts

6. On September 28, 2016, the United States District Court for the Southern District of New York's Local Rules under 28 U.S.C. §636(c), Jurisdiction, Powers and Temporary Assignment, assigned Petitioner's writ of habeas corpus to both United States District Judge Loretta A. Preska and United States Magistrate Judge Andrew J. Peck (see Appx. Exhibit B).

7. Magistrate Judge Peck moved to send Petitioner the Court's Individual Practice Requirements with instructions on how to proceed with his court (see Appx. Exhibit C).

8. Respondent, the Office of the Attorney General of the State of New York and its new Volunteer Assistant Attorney General Margaret Ann Cieprisz,¹ acknowledged the assignment of both

¹ Margaret Ann Cieprisz was parachuted "Volunteer Assistant Attorney General" by then-New York Attorney General Eric T. Schneiderman, in order to help cover-up serious misconduct by police, then-New York County District Attorney Cyrus R. Vance Jr. and his prosecutors Assistant District Attorneys Jessica Troy and Emily Auletta, court-appointed counsels and state judges, and was promoted for her own misconduct now as "Assistant Attorney General," no longer as a "Volunteer Assistant Attorney General" by Mr. Schneiderman before he was forced to resign for misconduct, see Ms. Cieprisz's signatures on Notice of Appearance dated November 21, 2016 and July 21, 2017 letter to Magistrate Judge Parker (Appx. Exhibits D & E, id.).

District Judge Preska and Magistrate Judge Peck, and moved to file a motion for extension of time dated November 21, 2016 (see Appx. Exhibit D).

9. Petitioner filed a "motion to seal certain exhibits and court records," (see Docket No. 16-cv-7201, Dkt. No. 10).

10. District Judge Preska, having presided upon Petitioner's previous Civil lawsuits for defamation² against some of New York news organizations concerning Petitioner's alleged criminal case on trial, moved to seize Petitioner's habeas corpus from Magistrate Judge Peck to give the impression that she will solely handle Petitioner's case without a need to be referred to Magistrate Judge Peck, and moved to deny Petitioner's "motion to seal certain exhibits and court records," (see Dkt. No. 10 id), citing *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962)(holding that

² In Petitioner's libel action against some of New York news organizations, then-Chief Judge for the Southern District of New York, District Judge Preska, in her sua sponte summary judgment dismissing Petitioner's pro se Complaints under the State of New York's 1 year statute of limitation, dated April 28, 2014, held that: "in 2010, Plaintiff was (sic) indicted in New York State Supreme Court, New York County, for crimes against several women. After a jury trial in 2011, Plaintiff was convicted of one count of first-degree rape and sentenced to twenty years in prison. The trial court denied Plaintiff's motion under New York Criminal Procedure Law §440.10 to vacate that conviction. *People v. Akassy*, 45 Misc. 3d 1211 (N.Y. Sup. Ct. Oct. 3, 2014). Plaintiff's criminal matter garnered a great deal of publicity, and he asserts defamation claims against The New York Daily News ("The News"); The New York Times ("The Times"); News Corp. ("The holding company of the New York Post"); The Associated Press ("A.P."); and WPIX 11 News ("WPIX"), *Akassy v. N.Y. Daily News, et. al.*, No. 14-cv-1725(LAP); *Akassy v. N.Y. Times, et. al.*, No. 14-cv-2499(LAP); *Akassy v. News Corp., et. al.*, No. 14-cv-2589(LAP); *Akassy v. PIX 11 News, et. al.*, No. 14-cv-3186(LAP); *Akassy v. The Associated Press, et. al.*, No. 14-cv-3213(LAP)(see Dkt. No. 15, COA, Appx. Ex. D, for copy of District Judge Preska's Order).

an Appellant demonstrates good faith when he seeks of a nonfrivolous issue").(Dkt. No. 19).

11. But on January 9, 2017, District Judge Preska, having previous knowledge of Petitioner's habeas corpus claims of fake indictments used by malicious prosecutors and court-appointed counsels to be railroaded in the Court of Claims Part 96 of Judge Jill Konviser with a lack of subject matter jurisdiction, had Magistrate Judge Parker who was just been appointed in 2016 with no judicial experience - the same year Petitioner filed his writ of habeas corpus - parachuted on Petitioner's case, and issued a misleading "order that (sic) case be referred to the Clerk of Court for assignment to a Magistrate Judge for habeas corpus. Referred to Andrew J. Peck. (Signed by Judge Loretta A. Preska on 1/6/2017(mro)(Entered: 01/06/2017." But the scheme was clearly designed to allow a parachuted Magistrate Judge Parker to recklessly hijack Petitioner's habeas corpus in order to sabotage, to gut Petitioner's grand jury verdict exculpatory evidence materials, to distort the compelling and irrefutable facts and constitutional laws, and to move to issue a blatant racially-bias Report and Recommendation to be adopted by District Judge Preska without a Certificate of Appealability as requested by then-Volunteer Assistant Attorney General Margaret Ann Cieprisz in a letter dated January 7, 2019 (see Dkt. No. 77), and to make things simple for this Court's 3-judge panel to have Petitioner's Certificate of Appealability denied once more.

12. But in a total contradiction, in the second paragraphs of District Judge Preska's Order dated July 16, 2020 (Dkt. No. 97), which denied Petitioner's writ of habeas corpus, she held that Magistrate Judge Parker was assigned on Petitioner's habeas corpus pursuant to "28 U.S.C. §636(b)(1)(c)," which is inaccurate and factually incorrect.

13. It is crystal clear from the Southern District of New York's Local Rules of Civil Procedure, that Petitioner's habeas corpus was truly assigned and referred to Magistrate Judge Peck, and not to Magistrate Judge Parker. (See Appx. Exhibit B, id).

**Magistrate Judge Parker's Racist Personal Attacks
In Her Report and Recommendation with lack of
Subject Matter Jurisdiction**

14. Magistrate Judge Parker, with no substantiated facts and evidence, and without subject matter jurisdiction on Petitioner's writ of habeas corpus, viciously identified Petitioner's place of birth Côte d'Ivoire (Ivory Coast) and the continent of Africa to make racist personal attacks in her Report and Recommendation calling Petitioner "a thief," casting doubt about Petitioner's legitimate profession as a foreign journalist to the United States, adopting the malicious prosecutors' fake indictments and fake true bill(s) of indictment(s) on a 24-count in a footnote (as it was done so by state trial Court of Claims Jill H. Konviser) in order to cause Petitioner an irreparable reputational harm as a foreign journalist, and to cover-up serious prosecutorial and judicial misconduct by New York County District Attorney Cyrus R. Vance Jr. and his prosecutors Assistant District Attorneys Jessica Troy and

Emily Auletta and state trial Court of Claims Judge Konviser with no subject matter jurisdiction on Petitioner's case which was already dismissed by the grand jury on August 16, 2010 and by the official trial Judge Carol Berkman on October 5, 2011 (see Dkt. No. 73 Report & Recommendation).

15. But the Appellate Division, First Department did not confirm that Petitioner was indicted at all in its order dated December 8, 2015, dismissing Petitioner's Direct Appeal without evidentiary hearing (see *People v. Akassy*, 134 A.D.3d 459, 19 N.Y. S.3d 882 (2015 N.Y. 1st Dept. Slip Op. 08953), and in her July 16, 2020 Order dismissing Petitioner's writ of habeas corpus, District Judge Preska abstained to confirm that Petitioner was indicted for crimes of rape, harassment and stalking and other crimes against anyone (see *Akassy v. Kirkpatrick*, 2020 WL 8678080 (S.D.N.Y. July 16, 2020), and even this Court did not acknowledge that Petitioner was indicted or convicted for crimes of rape, harassment and stalking, in its order dated July 7, 2022, denying Petitioner's Certificate of Appealability, whose decision was not published. Only Magistrate Judge Parker and state Court of Claims Judge Konviser have falsely accused Petitioner for being indicted with no subject matter jurisdictions on Petitioner's trial case and habeas corpus.

16. Magistrate Judge Parker made numerous false and racist statements in her Report and Recommendation accusing Petitioner for committing crimes of harassment and stalking against Melissa Oaks, Bess Greenberg, Paola d'Agostino and Orly Jeilinek, as the

unproven smear allegations of those white women were rejected by the state grand jury on August 16, 2020, as blatant lies and revenge because the women were romantically rejected by Petitioner.

17. Magistrate Judge Parker made false and racist statements in her Report and Recommendation accusing Petitioner for "attack" of Tatiana Antipeva in footnote as the alleged rape victim never accused Petitioner in a court of law and disappeared without a trace back home to Russia and was no-show at trial in the Court of Claims of Judge Konviser with a lack of subject matter jurisdiction (see Dkt. No. 15, COA Appx. Ex. G, Trial Transcript Minutes).

18. Magistrate Judge Parker, though she ordered Respondent to answer Petitioner's "Letter-as-Motion Seeking Permission to Amend Court Evidence" of rap-sheet (Dkt. No. 55), which proves that Petitioner was never indicted on a 24-count and that the prosecutors' purported grand jury indictment(s) and true bill(s) of indictment(s) signed and checkmarked on a 4-count and unsigned on a 24-count were fraudulent court documents and forgeries (Dkt. No. 56), allowed Respondent to have her answer concealed as a sealed document in a letter dated July 21, 2017, as shown in the court docket sheet:

"RESPONSE to Motion re: 47 MOTION for Reconsideration re; 43 Order on Motion to Seal Document...(Response) to Doc. 56. Document filed by Michael Kirkpatrick. (Cieprisz, Margaret)(Entered: 07/21/2017).

But Respondent's answer (see Appx. Exhibit D, p.2, id)(Dkt. No. 57) to Petitioner's Amendment of court evidence (Dkt. No. 55) is not a required document to be sealed because it is an exculpatory evidence material to Petitioner's compelling and irrefutable claim that the

state grand jury indeed dismissed the prosecutors' fake indictments and true bills on a 24-count, as the letter reads:

"... The indictment and the true bill (sic) signed by the jury foreperson (SR 24-36) are the official record of the charges for which Petitioner was indicted." (See Appx. Exhibit D, p.2, id)

It was crystal clear from Respondent's letter that there were no 2 bills of indictments and no indictments on a 24-count at all (see Appx. Exhibit E, which indicates that Court of Claims Jill H. Konviser was not the official assigned trial judge, but Judge Carol Beckman, in Court Part 71, for an alleged "Rapel" case, not on a 24-count, see also trial transcript minutes and rap-sheet records, see also, Dkt. No. 15, COA Appx. Ex. G, id.).

19. Magistrate Judge Parker conspired with the clerk of the court not to have Petitioner served any of her decisions on Petitioner's writ of habeas corpus and asked Petitioner to pay in order obtain any copy of orders by her or District Judge Preska, in a letter dated February 24, 2017 (see Dkt. No. 15, COA Appx. Ex.C).

20. Magistrate Judge Parker impersonated United States Court of Appeals Judge Barrington D. Parker in order to overrule previous Orders by District Judge Preska on Petitioner's writ of habeas corpus, and District Judge Preska refused to remove Magistrate Judge Parker on Petitioner's case despite blatant misconduct and lack of subject matter jurisdiction, as Petitioner moved to file Ethics Violation Complaint against Magistrate Judge Parker, whose order to appeal were never served to Petitioner (see Appx. Exhibit F, including district court's docket sheet proving that Magistrate

Judge Parker hijacked Petitioner's habeas corpus and made illegal decision, Dkt. No. 32).

21. Magistrate Judge Parker hijacked again Petitioner's Motion³ for "Subpoena" which was filed with District Judge Preska, in order to retrieve his official Press credentials, news assignment video-tapes, including television production equipment illegally searched and seized by police and New York County District Attorney's Office, to be denied and published her opinion and order as a case law (see Akassy v. Kirkpatrick, WL 125947 (S.D.N.Y. Jan. 8, 2019)).

22. Magistrate Judge Parker's lack of subject matter jurisdiction and racist inaccurate Report and Recommendation on Petitioner's writ of habeas corpus prompted the Board of Immigration Appeals to deny Petitioner's appeal for continuance, as ordered:

"We take administrative notice, moreover, that on December 7, 2018, a United States Magistrate Judge issued a recommendation that the (sic) Respondent's petition for a writ of habeas corpus concerning the 2011 conviction be dismissed in its entirety. See 8 C.F.R. §1003.1(d)(3)(iv); Akassy v. Kirkpatrick, No. 1:16-cv-7201(S.D.N.Y. Dec. 7, 2018). This was after the Magistrate Judge thoroughly considered, and then rejected, the Respondent's assertions that his conviction 'was the result of a conspiracy among police, prosecutors, judges, his attorneys, and court staff; that his attorneys were incompetent; and that his constitutional rights were violated in numerous ways."

³ Petitioner has informed the Committee to Protect Journalists and Human Rights Watch organization, to help recover his official Press credentials, professional television production equipment, news assignment video-tapes and personal items illegally searched and seized by police and the D.A.'s Office, without probable cause in violation of his 4th Amendment Constitution Rights.

23. Petitioner has provided to the United States Justice Department and the Federal Bureau of Investigation, trove of fraudulent documents, abuse of judicial process, corruption, in violation of criminal law and the court's judicial proceedings (see Appx. Exhibit G).

24. Magistrate Judge Parker had acted in the clear absence of all jurisdiction.

25. District Judge Preska had forfeited whatever jurisdiction she had "because of her failure to comply with elementary principles of procedural due process, (see Stump, 435 U.S. at 355, 98. Ct. at 1104) by allowing Magistrate Judge Parker to hijack Petitioner's writ of habeas corpus, to have her orders overruled by Magistrate Judge Parker, and to illegally adopt Magistrate Judge Parker's distorted racially-bias 63-page Report and Recommendation and failing to address each of Petitioner's objections in the process. Accordingly, Petitioner's writ of habeas corpus' decisions by both Magistrate Judge Parker and District Judge Preska should be vacated and struck down and stricken from all records.

26. Pursuant to United States District Court for the Southern District of New York's Local Rules of Civil Procedure (see Appx. Exhibit B, id) "all cases in the Southern District of New York (sic) are assigned to two judges. A district judge and a Magistrate Judge" by a lottery system. A district judge has no judicial authority to assign a case to a Magistrate judge of his/her own choice other than the one already assigned by the court, in this case, United States Magistrate Judge Andrew J. Peck, id.,

and not to Magistrate Judge Parker. Accordingly, pursuant to the United States District Court for the Southern District of New York's Local Rules of Civil Procedure Under 28 U.S.C. §636(c) and Fed.R.Civ.P.73, this Court should grant Petitioner's Notice, Consent, and Reference of a Civil Action to the Honorable United States Magistrate Judge Andrew J. Peck, in order to "conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings." See enclosing a signed AO 85 (Rev. 01/09) Notice, Consent, and Reference of a Civil Action to a Magistrate Judge Form, as Exhibit H).

For the reasons set forth, Petitioner respectfully asks⁴ this Court to grant his omnibus motion and further relief as this Court may seem just and proper.

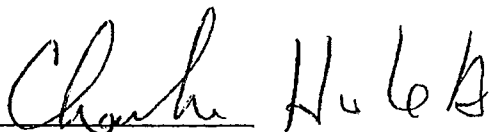
Dated: July 24, 2022
Alden, New York

Respectfully submitted,



Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN: 11 A 5580
Wende Corr. Facility
3040 Wende Rd., P.O. BOX 1187
Alden, New York 14004-1187

Charlene C. Hulett
Notary Public, State of New York
No. 01HU6391978
Qualified in Erie County
My commission expires May 20, 2023



⁴ Petitioner respectfully asks the Court to publish its decision with the names of the Full Court Members.

United States Court of Appeals for the Second Circuit
In the Matter of Akassy v. Kirkpatrick, Docket No. 20-3246

C E R T I F I C A T E O F S E R V I C E

I, Hugues-Denver Akassy, the Petitioner-Appellant in this action, declare under penalties of perjury that on this 4th day of August, 2022, I placed 2 copies of this Complaint for Judicial Misconduct, Full Court Members Rehearing en Banc, and the Reassignment of United States Magistrate Judge Andrew J. Peck on Writ of Habeas Corpus, into the Mailbox of the Wende Correctional Facility, via United States Mail, to Ms. Catherine O'Hagan Wolfe, Clerk of the Court, United States Court of Appeals for the Second Circuit, Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, N.Y. 10007; and to Margaret Ann Cieprisz, Volunteer Assistant Attorney General, Office of New York State Attorney General, 28 Liberty Street, New York 10005.

By: 

Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN: 11 A 5580
Wende Corr. Facility
3040 Wende Rd., P.O. BOX 1187
Alden, New York 14004-1187

APPENDIX B (3)

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: August 22, 2022
Docket #: 20-3246pr
Short Title: Akassy v. Kirkpatrick

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 16-cv-7201
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Preska
DC Judge: Parker

NOTICE OF DEFECTIVE FILING

On August 22, 2022 the motion for clarification on behalf of the Appellant was submitted in the above referenced case. The document does not comply with the FRAP or the Court's Local Rules for the following reason(s):

- ☐ Failure to submit acknowledgment and notice of appearance (*Local Rule 12.3*)
- ☐ Failure to file the Record on Appeal (*FRAP 10, FRAP 11*)
- ☒ Missing motion information statement (*T-1080 - Local Rule 27.1*)
- ☐ Missing supporting papers for motion (e.g, affidavit/affirmation/declaration) (*FRAP 27*)
- ☐ Insufficient number of copies (*Local Rules: 21.1, 27.1, 30.1, 31.1*)
- ☒ Improper proof of service (*FRAP 25*)
 - ☒ Missing proof of service
 - ☐ Served to an incorrect address
 - ☐ Incomplete service (*Anders v. California 386 U.S. 738 (1967)*)
- ☐ Failure to submit document in digital format (*Local Rule 25.1*)
- ☐ Not Text-Searchable (*Local Rule 25.1, Local Rules 25.2*), click [here](#) for instructions on how to make PDFs text searchable
- ☐ Failure to file appendix on CD-ROM (*Local Rule 25.1, Local Rules 25.2*)
- ☐ Failure to file special appendix (*Local Rule 32.1*)
- ☐ Defective cover (*FRAP 32*)
 - ☐ Incorrect caption (*FRAP 32*)
 - ☐ Wrong color cover (*FRAP 32*)
 - ☐ Docket number font too small (*Local Rule 32.1*)
- ☐ Incorrect pagination, click [here](#) for instructions on how to paginate PDFs (*Local Rule 32.1*)
- ☐ Incorrect font (*FRAP 32*)
- ☐ Oversized filing (*FRAP 27 (motion), FRAP 32 (brief)*)
- ☐ Missing Amicus Curiae filing or motion (*Local Rule 29.1*)

☐ Untimely filing
☐ Incorrect Filing Event

☒ Other: ☐ You may refile your request as a "Motion for Clarification" consisting of a T1080 form, supporting statement, and a certificate of service. The forms are enclosed for your convenience _____

Please cure the defect(s) and resubmit the document, with the required copies if necessary, no later than 09/12/2022. The resubmitted documents, if compliant with FRAP and the Local Rules, will be deemed timely filed.

Failure to cure the defect(s) by the date set forth above will result in the document being stricken. An appellant's failure to cure a defective filing may result in the dismissal of the appeal.

Inquiries regarding this case may be directed to 212-857-8560.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Thurgood Marshall United States Courthouse
40 Foley Square, New York NY 10007
212.857.8585

DEBRA ANN LIVINGSTON
CHIEF JUDGE

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

November 10, 2022

Hugues-Denver Akassy
#11-A-5580
Green Haven Correctional Facility
P.O. Box 4000
Stormville, NY 12582

Re: *Judicial Conduct Complaints*, 02-22-90199-jm, 02-22-90200-jm

Dear Mr. Akassy:

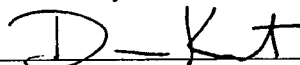
We hereby acknowledge receipt of your judicial complaints received and filed as of the dates received, October 14, 2022 and October 21, 2022 and appendix received and filed as of the date received, October 26, 2022.

The complaints and appendix have been filed under the above-referenced docket numbers and will be processed pursuant to the *Judicial Conduct and Disability Act of 1980*, 28 U.S.C. § 351-364 (2006), and the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

You will be notified by letter once a decision has been filed.

As per your request, enclosed please find a time-stamped copy of your complaints and appendix.

Very truly yours,
Catherine O'Hagan Wolfe, Clerk of Court

By: 
Dina Kurot
Deputy Clerk

APPENDIX B (4)

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: December 20, 2022
Docket #: 20-3246
Short Title: Akassy v. Kirkpatrick

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 16-cv-7201
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Preska
DC Judge: Parker

CASE STATUS UPDATE NOTICE

In response to your letter dated 12/06/2022, the copy of the documents you requested were mailed to you with a Case Status Update Notice and docket sheet on November 30, 2022. The notice, dated November 30, 2022 and a copy of the docket sheet are enclosed. Please note, your appeal was mandated and closed on November 16, 2022. No further information will be provided.

APPENDIX B (5)

January 15, 2023

The Honorable Debra Ann Livingston
Chief Judge
Chamber of Debra Ann Livingston
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, N.Y. 10007

RE: Complaint for Denying Petitioner's Constitutional Right to Fully
Access the Court by the Clerk of the Court Catherine O'Hagan
Wolfe, In the Matter of Akassy v. Kirkpatrick, No. 20-3246

Dear Judge Livingston:

I, Hugues-Denver Akassy, the Petitioner-Appellant in the above captioned-case, declare the following to be true under penalties of perjury.

1. As a black man and a freelance foreign journalist to the United States since 1994, it is with tremendous concerns to observe the Clerk of the Court, Catherine O'Hagan Wolfe, acting as a third party in this case to have it sabotaged and denied in favor of the Respondent. My appeal was mishandled by Ms. Wolfe.

2. Despite New York State Solicitor General Barbara D. Underwood's decision not to proceed with this case in this Court, the Clerk of the Court, Ms. Wolfe contrive to have former Volunteer Assistant Attorney General and now Assistant Attorney General Margaret Ann Cieprisz, substituted as counsel in order to move ahead.

3. Margaret Ann Cieprisz, as Assistant Attorney General of the State of New York, was only identified as Margaret Ann Cieprisz, Esq., in this case docket sheet to avoid controversy.

4. Ms. Cieprisz, however, failed to submit a single response or opposition to my Motion for Certificate of Appealability on Facts, Evidence Materials and Laws; Motion for Evidentiary Hearing on State Grand Jury Verdict Exculpatory Evidence Materials in Favor of Petitioner; Motion to Strike All Published Decisions by the Lower Courts for Lack of Subject Matter Jurisdiction; Motion for Clarification of 3-page Amendment; and Motion for Full Court Members Rehearing en Banc. With no answer from Respondent in a civil case, the Clerk of the Court, Ms. Wolfe still moved to dismiss my case in favor of Respondent.

5. On December 20, 2022, the Clerk of the Court, Ms. Wolfe, informed me in a "Case Status Update Notice," as follows:

"In response to your letter dated 12/06/2022, the copy of the documents you requested were mailed to you with a Case Status Update Notice and docket sheet on November 30, 2022. The notice, dated November 30, 2022 and a copy of the docket sheet are enclosed. Please note, your appeal was mandated and closed on November 16, 2022. No further information will be provided [sic]."

6. First and foremost, the Clerk of the Court, Ms. Wolfe, never issued to me a stamped-mandate of the Order dismissing my motion for Certificate of Appealability by a "three judge panel" without a hearing. No mandate Order was mailed to me to this day.

7. Second, the Clerk of the Court, Ms. Wolfe, never mailed to me copies of my Appendices in Support of Certificate of Appealability and Motion for Full Court Members Rehearing en Banc, as repeatedly requested back in August 2022, to no avail. The copies of my motions which were sent to me do not include the copies of the Appendices. Once again, I respectfully ask the Court to send me (a) the Entry stamped-copy of my Appendix in Support of Certificate of Appealability, (b) the Entry stamped-copy of my Appendix in Support of Motion for Full Court Members Rehearing en Banc, which the Clerk of the Court, Ms. Wolfe, omitted to enter in the docket sheet.

8. Third, the Court docket sheet shows (Dkt. No. 15) that the Clerk of the Court, Ms. Wolfe, had my Appendix in Support of Motion for Certificate of Appealability camouflaged as "Supplementary Papers to Motion" but not as Appendix in Support of Motion for Certificate of Appealability.

9. Fourth, the Court docket sheet shows (Dkt. No. 66) that the Clerk of the Court, Ms. Wolfe, had my letter of concerns seeking information about which of the "three-judge panel" abstained or concurred on the dismissal of my Certificate of Appealability as "urgent request" in order to camouflage its contents.

10. Fifth, the Court docket sheet shows that there are no record of any of my letters of concerns, dated October 22, 2022, to the Chief Judge and carbon-copied to the Clerk of the Court, about "Question of Concerns About the 'Court's July 7, 2022 Order' In the Matter of Akassy v. Kirkpatrick, Docket No. 20-3246."

11. The Court docket sheet shows that there is no record of my letter of concerns about the "Court's July 7, 2022 Order In the Matter of Akassy v. Kirkpatrick, Docket No. 20-3246" to Circuit Judge Raymond J. Lohier, Jr., as to know if the "three-judge panel's" decision was unanimous or not. No answer was received.

12. The Court record shows that on July 7, 2022, a "three-judge panel," including Chief Judge Debra Ann Livingston, Circuit Judges José A. Cabranes and Raymond J. Lohier, Jr., denied my Motion for Certificate of Appealability, without an evidentiary hearing on exculpatory state grand jury verdict in favor of me. Yet despite up to 4 letters in the process, the Clerk of the Court, Ms. Wolfe has refused to inform me if the decision was unanimous or which of the "three-judge panel" abstained.

13. In response to my letter of concerns dated July 24, 2022, as to know if the decision of the "three-judge panel" was unanimous or not, on July 29, 2022, the Clerk of the Court, Ms. Wolfe, sent me a Case Status Update Notice, stating:

"In response to your letter dated July 24, 2022, your appeal is [sic] dismissed. Any motion for reconsideration or reconsideration en banc should be filed no later than 08/04/2022. If no said motion is received by that date, the Court will issue the mandate on 08/11/2022. Please note the attached copy of the docket sheet."

As the Case Status Update Notice shows above, the Clerk of the Court, Ms. Wolfe, gave only 2 days to file my Motion for Full Court Members Rehearing en Banc, knowing that as a prisoner, it will be impossible with free movement to the law library to do so as her mail was received on 08/02/2022, just 2 days before the 08/04/2022 Court deadline.

14. The Court docket sheet shows that my Motion for Full Court Members Rehearing en Banc (Dkt. No. 68), was not submitted to the Full Court Members, but to the "three-judge panel" for "Motion for [reconsideration en banc] (only)." The Clerk of the Court, Ms. Wolfe, had denied my Civil Rights and constitutional right to the Full Court Members Rehearing en Banc of my Certificate of Appealability.

15. The Court Order dated November 9, 2022, was the exact same language used to deny my motion for reconsideration in the immigration case, as follows:

"Appellant, Hugues-Denver Akassy, filed a petition for panel rehearing, or, in the alternative, for rehearing en banc. The panel that determined the appeal [sic] has considered the request as a motion for reconsideration, and the active members of the Court have considered the request for rehearing en banc. IT IS HEREBY ORDERED that the motion and petition are denied."

The Order does not indicate the names of any Circuit Judges. And as

Dkt. No. 89 shows, my Motion for Full Court Members Rehearing en Banc, was docketed as "MOTION ORDER, [denying]motion for reconsideration (only)." The discrepancies of the Order received and the one in the Court docket sheet are so concerning.

16. The Court Order dated November 9, 2022 (Dkt. No. 91), which was also served to me together with (Dkt. No. 89) Motion for Full Court Members Rehearing en Banc, states that:

"IT IS HEREBY ORDERED that the motions to amend and for [clarification] (docket entries 74 and 77) are DENIED as moot in light of the Court's order denying Appellant's motion for reconsideration en banc."

The above Order does not indicate the names of any Circuit Judges, and it appears to be issued by the Clerk of the Court, Ms. Wolfe, acting as a Circuit Judge to dismiss my motions.¹

17. The Clerk of the Court, Ms. Wolfe, had illegally docketed, in this case Docket No. 20-3246, United States Magistrate Judge Katharine H. Parker as the "Assigned Magistrate Judge" despite the District Court's official records submitted in this Court showing that United States Magistrate Judge Andrew J. Peck was the solely official Assigned and Referred Magistrate Judge on my pro se Petition for Writ of Habeas Corpus Pursuant to Local Rules of Civil Procedure 636(c) and Fed.R.Civ.P.73, Jurisdiction, Powers and Temporary Assignment.

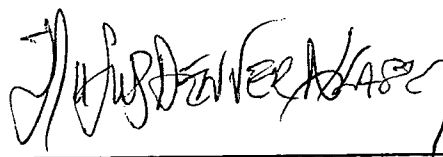
18. The Clerk of the Court, Ms. Wolfe, has coalesced with the party involved in my case to gaslighting me to the degree to force me to give up with motions to reveal the truth of serious misconduct by unethical state officials.

19. The July 7, 2022 decision states that "... Upon due consideration, it is hereby ORDERED that the [COA] motion is DENIED and the appeal is DISMISSED because Appellant has not made a substantial showing of the denial of a constitutional right." That was a bad and illegal decision because not only it lacked subject matter jurisdiction before the Clerk of the Court, Ms. Wolfe, but the United States Supreme Court held that "A court cannot permit a defendant to be tried on charges that are not made in the indictment against him," as I was racially subjected to. (See Id. 361 U.S. at 217, 80 D. Ct. 270). The July 7, 2022 decision was never reported and published because it is wrong and unfair to me as a black man.

¹ In my letter of concerns dated October 22, 2022, to Chief Judge Debra Ann Livingston, I mistakenly thought that the Deputy Clerk's correspondence with me regarding Complaint for Judicial Misconduct meant that the Clerk of the Court, Ms. Wolfe, was removed from my case, which was not the case.

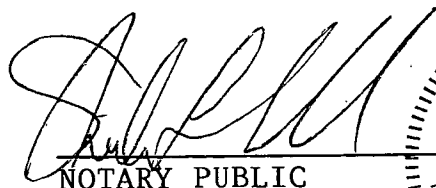
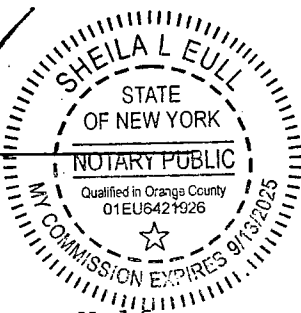
For the reasons set forth, I respectfully ask the Court to send me the copies of my stamped Appendices, and, to remove the Clerk of the Court, Ms. Wolfe, from this case for any future proceedings.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner-Appellant, Pro Se
DIN #: 11 A 5580
Shawangunk Corr, Facility
200 Quick Road
P.O. BOX 700
Wallkill, New York

SWORN TO BEFORE ME
This 17 day of January, 2023


NOTARY PUBLIC

cc: Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, N.Y. 10007

PS: Petitioner-Appellant was again transferred from the Green Haven Correctional Facility, to the Shawangunk Correctional Facility, on January 12, 2023.

APPENDIX

C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HUGUES-DENVER AKASSY,

Petitioner,

-against-

MICHAEL KIRKPATRICK,

Respondent.

16 Civ. 7201 (LAP) (KHP)

ORDER

LORETTA A. PRESKA, SENIOR UNITED STATES DISTRICT JUDGE:

Hughes-Denver Akassy, proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his conviction in New York State Supreme Court for rape, harassment, and other offenses. (Dkt. no. 2.) On December 7, 2018, Magistrate Judge Katherine H. Parker issued a carefully reasoned 63-page Report and Recommendation recommending that Mr. Akassy's petition be dismissed in its entirety. (Dkt. no. 73.) On December 17, 2018, Mr. Akassy submitted objections to the Report and Recommendation. (Dkt. no. 74.)

For purposes of this order, the Court assumes the parties' familiarity with the underlying facts and analysis set forth in Magistrate Judge Parker's Report and Recommendation. When reviewing a report and recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). When a party submits an objection to a

magistrate judge's report and recommendation, the district court reviews de novo the parts of the report and recommendation to which the party objected. Id.; Fed. R. Civ. P. 72(b).

Mr. Akassy's principal objection is that Magistrate Judge Parker erred in denying him relief based on the alleged falsification of his indictment. (See, e.g., dkt. no. 74 at 2-3, 5-6, 8, 9, 10.) Reviewing de novo Mr. Akassy's arguments on that point, the Court finds them meritless. First, Mr. Akassy has not identified any credible evidence supporting his theory that the indictment was falsified, forged, or otherwise improper. Second, as Magistrate Judge Parker correctly found, Mr. Akassy's arguments targeting the indictment concern the grand jury proceedings and provide no basis for habeas corpus relief. (See dkt. no. 73 at 41-42); see also, e.g., Lopez v. Riley, 865 F.2d 30, 32 (2d Cir. 1989) ("If federal grand jury rights are not cognizable on direct appeal where rendered harmless by a petit jury, similar claims concerning a state grand jury proceeding are a fortiori foreclosed in a collateral attack brought in a federal court.").

Alongside his arguments regarding the indictment, Mr. Akassy makes scattershot objections to virtually every conclusion reached by Magistrate Judge Parker. (See dkt. no. 74.) The Court has reviewed his arguments and the Report and Recommendation de novo and finds Magistrate Judge Parker's

resolution of the issues to be thorough, well-grounded in the law, and correct. The Court therefore adopts the Report and Recommendation in its entirety.¹

For the foregoing reasons, Mr. Akassy's habeas corpus petition is dismissed. Because Mr. Akassy has not made a substantial showing of a denial of a constitutional right, no certificate of appealability will be granted. The Clerk of the Court shall mark this action closed and all pending motions denied as moot and mail a copy of this order to Mr. Akassy.

SO ORDERED.

Dated: July 16, 2020
New York, New York



LORETTA A. PRESKA, U.S.D.J.

¹ Mr. Akassy has two other pending motions, both of them meritless. The first asks the Court to strike all of Magistrate Judge Parker's orders because she purportedly "impersonat[ed]" Court of Appeals Judge Barrington D. Parker Jr. in ordering that certain materials be placed under seal. (Dkt. no. 89.) But the subject order is clearly signed by Magistrate Judge Parker (see dkt. no. 32), and any confusion on the docket sheet regarding the signatory of that order was the result of an error that has since been corrected. Mr. Akassy's second motion seeks review of Magistrate Judge Parker's order denying his motion for her recusal. (See dkt. nos. 87, 90.) Mr. Akassy's arguments for recusal, however, are either bald assertions of bias or gripes about Magistrate Judge Parker's decisions against him, neither of which provide a basis for recusal. See PaineWebber Inc. v. Nwogugu, No. 98 Civ. 2441 (DLC), 1998 WL 912062, at *2 (S.D.N.Y. Dec. 30, 1998) ("A recusal motion will not be granted where the movant asserts only conclusory allegations that a judge is biased"); Liteky v. United States, 510 U.S. 540, 555 (1994) ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion."). Mr. Akassy's motions are therefore denied.

APPENDIX D

General Docket
Court of Appeals, 2nd Circuit

Court of Appeals Docket #: 20-3246 Nature of Suit: 3530 PRISONER PET-Habeas Corpus Akassy v. Kirkpatrick Appeal From: SDNY (NEW YORK CITY) Fee Status: IFP Granted		Docketed: 09/24/2020 Termed: 07/07/2022												
Case Type Information: 1) Prisoner 2) State 3) Habeas Corpus														
Originating Court Information: District: 0208-1 : 16-cv-7201 Trial Judge: Loretta A. Preska, U.S. District Judge Trial Judge: Katharine H. Parker, U.S. Magistrate Judge Date Filed: 09/15/2016 <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">Date</td> <td style="width: 25%;">Date Order/Judgment</td> <td style="width: 25%;">Date NOA</td> <td style="width: 25%;">Date Rec'd</td> </tr> <tr> <td>Order/Judgment:</td> <td>EOD:</td> <td>Filed:</td> <td>COA:</td> </tr> <tr> <td>07/16/2020</td> <td>07/16/2020</td> <td>09/21/2020</td> <td>09/24/2020</td> </tr> </table>			Date	Date Order/Judgment	Date NOA	Date Rec'd	Order/Judgment:	EOD:	Filed:	COA:	07/16/2020	07/16/2020	09/21/2020	09/24/2020
Date	Date Order/Judgment	Date NOA	Date Rec'd											
Order/Judgment:	EOD:	Filed:	COA:											
07/16/2020	07/16/2020	09/21/2020	09/24/2020											
Prior Cases: None														
Current Cases: None														
Panel Assignment: Not available														

Hugues-Denver Akassy (State Prisoner: 11-A-5580) <div style="text-align: center; margin-top: 10px;"> Petitioner - Appellant </div>	Hugues-Denver Akassy, - [NTC Pro Se] Green Haven Correctional Facility 594 Route 216 Stormville, NY 12582 Hugues-Denver Akassy, - Terminated: 09/19/2022 [NTC Pro Se] Wende Correctional Facility 3040 Wende Road P.O. Box 1187 Alden, NY 14004
---	---

Michael Kirkpatrick
Respondent - Appellee

Margaret Ann Cieprisz, Esq., -
Direct: 212-416-8620
[COR LD NTC Government]
New York State Office of the Attorney General
28 Liberty Street
New York, NY 10005

Barbara D. Underwood, -
Terminated: 09/30/2020
[COR NTC Government]
New York State Office of the Attorney General
28 Liberty Street
New York, NY 10005

Hugues-Denver Akassy,

Petitioner - Appellant,

v.

Michael Kirkpatrick,

Respondent - Appellee.

09/24/2020	<input type="checkbox"/>	<u>1</u>	NOTICE OF PRISONER APPEAL, with district court docket, on behalf of Appellant Hugues-Denver Akassy, FILED. [2938998] [20-3246] [Entered: 09/25/2020 03:33 PM]
			17 pg, 130.34 KB
09/24/2020	<input type="checkbox"/>	<u>2</u>	DISTRICT COURT ORDER, dated 07/16/2020, RECEIVED.[2939008] [20-3246] [Entered: 09/25/2020 03:39 PM]
			3 pg, 55.13 KB
09/24/2020	<input type="checkbox"/>	<u>6</u>	ELECTRONIC INDEX, in lieu of record, FILED.[2940111] [20-3246] [Entered: 09/28/2020 04:17 PM]
			15 pg, 206.34 KB
09/25/2020	<input type="checkbox"/>	<u>5</u>	INSTRUCTIONAL FORMS, to Pro Se litigant, SENT.[2939024] [20-3246] [Entered: 09/25/2020 03:45 PM]
			1 pg, 11.58 KB
09/29/2020	<input type="checkbox"/>	<u>7</u>	NOTICE OF APPEARANCE AS SUBSTITUTE COUNSEL, on behalf of Appellee Michael Kirkpatrick, FILED. Service date 09/29/2020 by US mail. [2940446] [20-3246] [Entered: 09/29/2020 10:33 AM]
			2 pg, 105.32 KB
09/30/2020	<input type="checkbox"/>	<u>8</u>	ATTORNEY, Margaret A. Cieprisz, [7], in place of attorney Barbara D. Underwood, SUBSTITUTED.[2941896] [20-3246] [Entered: 09/30/2020 02:39 PM]
10/02/2020	<input type="checkbox"/>	<u>9</u>	MOTION, to extend time, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 09/28/2020 by US mail.[2945458] [20-3246] [Entered: 10/05/2020 03:52 PM]

10/05/2020	<input type="checkbox"/>	<u>10</u>	DEFECTIVE DOCUMENT, Motion, to extend time, [9], on behalf of Appellant Hugues-Denver Akassy, copy to pro se, FILED.[2945466] [20-3246] [Entered: 10/05/2020 03:55 PM]
			2 pg, 18.07 KB
10/09/2020	<input type="checkbox"/>	<u>11</u>	ACKNOWLEDGMENT AND NOTICE OF APPEARANCE, on behalf of Appellee Michael Kirkpatrick, FILED. Service date 10/09/2020 by US mail.[2949587] [20-3246] [Entered: 10/09/2020 04:08 PM]
			2 pg, 89.66 KB
10/13/2020	<input type="checkbox"/>	<u>12</u>	ORDER, dated 10/13/2020, dismissing appeal by 11/03/2020, unless Appellant Hugues-Denver Akassy, submits Acknowledgment and Notice of Appearance form, copy to pro se appellant, FILED.[2950159] [20-3246] [Entered: 10/13/2020 10:04 AM]
			1 pg, 36.89 KB
10/20/2020	<input type="checkbox"/>	<u>13</u>	MOTION, for certificate of appealability and for an evidentiary hearing, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 10/12/2020 by US mail.[2959193] [20-3246] [Entered: 10/23/2020 02:48 PM]
10/22/2020	<input type="checkbox"/>	<u>15</u>	SUPPLEMENTARY PAPERS TO MOTION [13],[13], on behalf of Appellant Hugues-Denver Akassy, FILED. No service.[2963177][15] [20-3246] [Entered: 10/29/2020 10:53 AM]
10/23/2020	<input type="checkbox"/>	<u>14</u>	DEFECTIVE DOCUMENT, Motion, for certificate of appealability and for an evidentiary hearing, [13],[13], on behalf of Appellant Hugues-Denver Akassy, copy to pro se appellant, FILED.[2959199] [20-3246] [Entered: 10/23/2020 02:49 PM]
			2 pg, 18.25 KB
10/29/2020	<input type="checkbox"/>	<u>16</u>	DEFECTIVE DOCUMENT, Supplementary papers to Motion, [15], on behalf of Appellant Hugues-Denver Akassy, copy to pro se appellant, FILED.[2963181] [20-3246] [Entered: 10/29/2020 10:56 AM]
			2 pg, 18.09 KB
10/29/2020	<input type="checkbox"/>	<u>17</u>	ACKNOWLEDGMENT AND NOTICE OF APPEARANCE FORM, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 10/23/2020 by US mail.[2963950] [20-3246] [Entered: 10/30/2020 02:51 AM]
			4 pg, 1.19 MB
10/29/2020	<input type="checkbox"/>	<u>18</u>	MOTION, to extend time, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 10/23/2020 by US mail.[2964406] [20-3246] [Entered: 10/30/2020 12:13 PM]
			10 pg, 1.45 MB
10/30/2020	<input type="checkbox"/>	<u>19</u>	CURED DEFECTIVE MOTION, TO EXTEND TIME [18], on behalf of Appellant Hugues-Denver Akassy, FILED. [2964407] [20-3246] [Entered: 10/30/2020 12:15 PM]
11/03/2020	<input type="checkbox"/>	<u>23</u>	MOTION ORDER, granting Appellant Hugues-Denver Akassy motion for extension of time to 11/30/2020 to file a motion for certificate of appealability [18], by MHP, FILED. [2966942][23] [20-3246] [Entered: 11/03/2020 04:16 PM]
			1 pg, 60.2 KB
11/03/2020	<input type="checkbox"/>	<u>24</u>	LETTER, dated 10/28/2020, on behalf of Appellant Hugues-Denver Akassy, requesting a copy of the docket sheet for 20-3246 and 16-cv-7201, RECEIVED. [2967829] [20-3246] [Entered: 11/04/2020 02:26 PM]
			3 pg, 126.99 KB
11/09/2020			

	<input type="checkbox"/>	<u>26</u>	MOTION, for certificate of appealability and for an evidentiary hearing, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 11/02/2020 by US mail.[2971846] [20-3246] [Entered: 11/10/2020 01:31 PM]
11/10/2020	<input type="checkbox"/>	<u>27</u>	DEFECTIVE DOCUMENT, Motion, for certificate of appealability and for an evidentiary hearing, [26],[26], on behalf of Appellant Hugues-Denver Akassy, copy to pro se appellant, FILED.[2971858] [20-3246] [Entered: 11/10/2020 01:37 PM]
			2 pg, 18.22 KB
11/13/2020	<input type="checkbox"/>	<u>28</u>	SUPPLEMENTARY PAPERS TO MOTION [13],[13], [26],[26], on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 11/09/2020 by US mail.[2975224][28] [20-3246] [Entered: 11/16/2020 02:22 PM]
			76 pg, 5.63 MB
11/16/2020	<input type="checkbox"/>	<u>29</u>	CURED DEFECTIVE SUPPLEMENTARY PAPERS TO MOTION [28], on behalf of Appellant Hugues-Denver Akassy, FILED.[2975227] [20-3246] [Entered: 11/16/2020 02:23 PM]
12/01/2020	<input type="checkbox"/>	<u>30</u>	MOTION, to file oversized motion for certificate of appealability and evidentiary hearing, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 11/16/2020 by US mail.[2985203] [20-3246] [Entered: 12/02/2020 05:05 PM]
			6 pg, 170.61 KB
12/07/2020	<input type="checkbox"/>	<u>34</u>	MOTION ORDER, granting Appellant Hugues-Denver Akassy motion to file oversized motion for certificate of appealability [30], by RJL, copy to pro se appellant, FILED. [2987600][34] [20-3246] [Entered: 12/07/2020 09:48 AM]
			1 pg, 60.22 KB
12/07/2020	<input type="checkbox"/>	<u>35</u>	MOTION, for certificate of appealability and for an evidentiary hearing, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 11/02/2020 by US mail.[3010472] [20-3246] [Entered: 01/11/2021 12:25 PM]
			30 pg, 3.33 MB
01/11/2021	<input type="checkbox"/>	<u>36</u>	CURED DEFECTIVE MOTION, FOR CERTIFICATE OF APPEALABILITY AND FOR AN EVIDENTIARY HEARING [35], [35], on behalf of Appellant Hugues-Denver Akassy, FILED.[3010473] [20-3246] [Entered: 01/11/2021 12:26 PM]
03/29/2021	<input type="checkbox"/>	<u>43</u>	MOTION, to strike all published decisions by the lower courts in this case, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 03/25/2021 by US mail.[3067713] [20-3246] [Entered: 03/31/2021 03:33 PM]
			9 pg, 1.76 MB
04/02/2021	<input type="checkbox"/>	<u>47</u>	LETTER, dated 03/29/2021, on behalf of Appellant Hugues-Denver Akassy, requesting a copy of the motion at entry 43, RECEIVED. No service.[3069919] [20-3246] [Entered: 04/05/2021 09:38 AM]
			2 pg, 140.58 KB
10/08/2021	<input type="checkbox"/>	<u>52</u>	LETTER, dated 10/04/2021, on behalf of Appellant Hugues-Denver Akassy, requesting a copy of the docket sheet, RECEIVED. No service. [3190564] [20-3246] [Entered: 10/12/2021 02:50 PM]
			3 pg, 144.31 KB
12/06/2021	<input type="checkbox"/>	<u>54</u>	LETTER, dated 12/01/2021, on behalf of Appellant Hugues-Denver Akassy, requesting copies of documents from the district court,
			2 pg, 44.97 KB

		RECEIVED. No service.[3225183] [20-3246] [Entered: 12/08/2021 03:57 PM]
03/03/2022	<input type="checkbox"/> <u>57</u>	LETTER, dated 02/27/2022, on behalf of Appellant Hugues-Denver Akassy, requesting status of case, RECEIVED. No service.[3272752] [20-3246] [Entered: 03/07/2022 10:57 AM]
	2 pg, 61.87 KB	
03/07/2022	<input type="checkbox"/> <u>58</u>	NOTICE, Case Status, copy to pro se appellant, SENT.[3272754] [20-3246] [Entered: 03/07/2022 10:57 AM]
	1 pg, 91.03 KB	
07/07/2022	<input type="checkbox"/> <u>64</u>	NEW CASE MANAGER, Atasha Joseph, ASSIGNED.[3343888] [20-3246] [Entered: 07/07/2022 03:23 PM]
	1 pg, 88.33 KB	
07/07/2022	<input type="checkbox"/> <u>65</u>	MOTION ORDER, denying motion for certificate of appealability [35] filed by Appellant Hugues-Denver Akassy; denying motion for an evidentiary hearing [35] filed by Appellant Hugues-Denver Akassy, denying motion to strike all published decisions by the lower courts in this case [43] filed by Appellant Hugues-Denver Akassy, by DAL, JAC, R.JL, copy sent to pro se, FILED. [3343909][65] [20-3246] [Entered: 07/07/2022 03:35 PM]
	1 pg, 132.73 KB	
07/28/2022	<input type="checkbox"/> <u>66</u>	LETTER, dated 07/24/2022, on behalf of Appellant Hugues-Denver Akassy, urgent request, RECEIVED. Service date 07/25/2022 by US mail.[3356673] [20-3246] [Entered: 07/29/2022 12:42 PM]
	2 pg, 88.18 KB	
07/29/2022	<input type="checkbox"/> <u>67</u>	NOTICE, Case Status, SENT.[3356679] [20-3246] [Entered: 07/29/2022 12:46 PM]
	1 pg, 90.64 KB	
08/09/2022	<input type="checkbox"/> <u>68</u>	MOTION, for reconsideration en banc (only), on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 08/04/2022 by US mail. [3362127] [20-3246] [Entered: 08/09/2022 11:53 AM]
	17 pg, 520.38 KB	
08/22/2022	<input type="checkbox"/> <u>72</u>	MOTION, for clarification of Order entered on 07/07/2022, on behalf of Appellant Hugues-Denver Akassy, FILED. No Service.[3369134] [20-3246] [Entered: 08/22/2022 02:00 PM]
08/22/2022	<input type="checkbox"/> <u>73</u>	DEFECTIVE DOCUMENT, motion for clarification [72], on behalf of Appellant Hugues-Denver Akassy, FILED.[3369138] [20-3246] [Entered: 08/22/2022 02:01 PM]
	2 pg, 128.09 KB	
08/26/2022	<input type="checkbox"/> <u>74</u>	MOTION, to amend motion for reconsideration en banc, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 08/22/2022 by US mail.[3372878] [20-3246] [Entered: 08/29/2022 08:59 AM]
	9 pg, 265.05 KB	
09/09/2022	<input type="checkbox"/> <u>77</u>	MOTION, for clarification, on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 08/31/2022 by US mail.[3379724] [20-3246] [Entered: 09/09/2022 04:33 PM]
	4 pg, 114.17 KB	
09/09/2022	<input type="checkbox"/> <u>78</u>	CURED DEFECTIVE MOTION, for clarification, [77], on behalf of Appellant Hugues-Denver Akassy, FILED.[3379727] [20-3246] [Entered: 09/09/2022 04:35 PM]
09/13/2022	<input type="checkbox"/> <u>80</u>	

	2 pg, 88.6 KB		LETTER, dated 09/06/2022, on behalf of Appellant Hugues-Denver Akassy, re: in transit to a different facility, RECEIVED. Service date 09/08/2022 by US mail.[3382073] [20-3246] [Entered: 09/14/2022 02:13 PM]
09/15/2022	<input type="checkbox"/> <u>81</u> 3 pg, 135.45 KB		LETTER, dated 09/11/2022, on behalf of Appellant Hugues-Denver Akassy, re: change of address, RECEIVED. Service date 09/12/2022 by US mail.[3384216] [20-3246] [Entered: 09/19/2022 08:49 AM]
10/25/2022	<input type="checkbox"/> <u>86</u> 4 pg, 192.18 KB		SUPPLEMENTARY PAPERS TO MOTION [68], on behalf of Appellant Hugues-Denver Akassy, FILED. Service date 10/20/2022 by US mail.[3407253][86] [20-3246] [Entered: 10/25/2022 12:40 PM]
11/09/2022	<input type="checkbox"/> <u>89</u> 1 pg, 145.62 KB		MOTION ORDER, denying motion for reconsideration en banc (only), [68] filed by Appellant Hugues-Denver Akassy, copy sent to pro se, FILED. [3417216][89] [20-3246] [Entered: 11/09/2022 01:06 PM]
11/09/2022	<input type="checkbox"/> <u>91</u> 1 pg, 147.9 KB		MOTION ORDER, denying as moot motion to amend document [74] filed by Appellant Hugues-Denver Akassy; denying as moot motion for clarification [77] filed by Appellant Hugues-Denver Akassy, copy sent to pro se, FILED. [3417389][91] [20-3246] [Entered: 11/09/2022 02:49 PM]
11/16/2022	<input type="checkbox"/> <u>92</u> 1 pg, 744.82 KB		CERTIFIED COPY OF ORDER, dated 07/07/2022, determining the appeal to SDNY, copy sent to pro se, ISSUED.[Mandate][3420570] [20-3246] [Entered: 11/16/2022 09:48 AM]

- ☒ **Documents and Docket Report**
- ☐ **Documents and Docket Summary**
- ☐ **Documents Only**

☒ **Include Page Numbers**

Selected Pages: Selected Size:

APPENDIX D (1)

August 22, 2016

Mr. Ruby J. Krajick
Clerk of the Court
Pro Se Intake Unit
United States District Court
Southern District of New York
500 Pearl Street,
New York, N.Y. 10007

RE: Petitioner's Federal Habeas Corpus Under 28 U.S.C. § 2254
And Supporting Documents; People v. Hugues-Denver Akassy;
Indictment No. 03884/2010 (New York County)

Dear Mr. Krajick:

Enclosed please find the following documents in support of my Federal Habeas Corpus Petition Under 28 U.S.C. § 2254 by a Person in State Custody:

a) Hugues-Denver Akassy's Affirmation in Support of his Federal Habeas Corpus Petition Under 28 U.S.C. § 2254;

b) My Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (see, AKASSY DECL. EX. 1);

c) Petitioner's Appendix Declaration (Hugues-Denver Akassy)
AKASSY DECL. EX. 1 to AKASSY DECL. EX. 50;


d) Petitioner's Permission to submit a 60-page brief;

e) Petitioner's Notice of Motion Affidavit to appeal in Forma Pauperis;

f) Petitioner's request to this Court to place certain sensitive EXHIBITS in this case off public view.

Due to my poor person status, and because I was granted a Poor-Person-Relief by the Appellate Division, First Department, to appeal this case, I am unable to make copies of the above documents to the New York State Attorney General, Eric T. Schneiderman. I, therefore, ask this Court to make copies of the above documents available to the Respondent, except my Petition Under 28 U.S.C. § 2254 and my Affirmation in Support of my Federal Habeas Corpus petition Under 28 U.S.C. § 2254, which will be sent by me to the Respondent.

Respectfully submitted,


Hugues-Denver Akassy
Petitioner's Pro Se
DIN #: 11 A 5580
Clinton Correctional Facility
P.O. BOX 2001
Dannemora, N.Y. 12929

PS: New York County
District Attorney's
Office already had
Copies of all documents
mentioned in this case.

HABEAS,CASREF,ECF,PRO-SE

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:16-cv-07201-LAP-KHP
Internal Use Only**

Akassy v. Kirkpatrick
Assigned to: Judge Loretta A. Preska
Referred to: Magistrate Judge Katharine H. Parker
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 09/15/2016
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner**Hugues-Denver Akassy**

represented by **Hugues-Denver Akassy**
11-A-5580
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929
PRO SE


V.

Respondent**Michael Kirkpatrick**

represented by **Lisa E. Fleischmann**
New York State Office of the Attorney
General
120 Broadway
New York, NY 10271
(212)-416-8802
Fax: (212)-416-8010
Email: lisa.fleischmann@ag.ny.gov
ATTORNEY TO BE NOTICED

Margaret Ann Cieprisz
New York State Office of the Attorney
General (28 Liberty)
28 Liberty Street, 15th Floor
New York, NY 10005
(212)-416-8620
Fax: 212-637-2615
Email: margaret.cieprisz@ag.ny.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/15/2016	<u>1</u>	REQUEST TO PROCEED IN FORMA PAUPERIS(APPEALS). Document

		filed by Hugues-Denver Akassy.(rdz) Modified on 9/16/2016 (rdz). (Entered: 09/16/2016)
09/15/2016	<u>2</u>	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254. Document filed by Hugues-Denver Akassy. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(rdz) (Entered: 09/16/2016)
09/15/2016		Case Designated ECF. (rdz) (Entered: 09/16/2016)
09/15/2016		(Court only) *** Set/Clear Flags *** Added flag(s):Pro Se. (rdz) (Entered: 09/16/2016)
09/15/2016		(Court only) *** Set/Clear Flags *** Added flag(s):Pro Se Review. (rdz) (Entered: 09/16/2016)
09/15/2016	<u>3</u>	PRISONER AUTHORIZATION. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 09/16/2016)
09/15/2016	<u>4</u>	AFFIRMATION in Support re: <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Hugues-Denver Akassy. (rdz) (Main Document 4 replaced on 3/31/2017) (tn). (Entered: 09/16/2016)
09/15/2016	<u>5</u>	LETTER from Hugues-Denver Akassy dated 9/9/2016 re: Requesting this Court Letter to Order the Clinton Correctional Facility's Mail Office to allow access of my Federal Habeas Petition. Document filed by Hugues-Denver Akassy.(rdz) (Main Document 5 replaced on 9/16/2016) (rdz). (Entered: 09/16/2016)
09/15/2016	<u>6</u>	MOTION for Permission to submit a 60-Page Pro Se Brief in support of Petition. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 09/16/2016)
09/16/2016		(Court only) Pro Se Staff Attorney B. Lerner [Telephone Extension 0699] assigned case. Pro Se Staff Attorney Flag PSA-Lerner set. Pro Se Staff Attorney Action (Screening Memo to Judge/Sua Sponte Order to Dismiss, Amend or Transfer, or Order to Answer) due by 10/17/2016. (rdz) (Entered: 09/16/2016)
09/26/2016	<u>7</u>	ORDER GRANTING IFP APPLICATION: Leave to proceed in this Court without prepayment of fees is authorized. 28 U.S.C. § 1915. (Signed by Judge Colleen McMahon on 9/26/2016) (vj) (Entered: 09/26/2016)
09/26/2016		Mailed a copy of <u>7</u> Order Granting IFP Application to Hugues-Denver Akassy. (vj) (Entered: 09/26/2016)
09/27/2016	<u>10</u>	MOTION to Seal certain exhibits and Court Record. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 10/05/2016)
09/27/2016 	<u>11</u>	(Court only) APPENDIX DECLARATION of Hugues-Denver Akassy. Document filed by Hugues-Denver Akassy. (rdz) (Additional attachment(s) added on 10/7/2016: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit, # <u>13</u> Exhibit, # <u>14</u> Exhibit, # <u>15</u> Exhibit, # <u>16</u> Exhibit, # <u>17</u> Exhibit, # <u>18</u> Exhibit, # <u>19</u> Exhibit, # <u>20</u> Exhibit, # <u>21</u> Exhibit, # <u>22</u>

		Exhibit, # <u>23</u> Exhibit, # <u>24</u> Exhibit, # <u>25</u> Exhibit, # <u>26</u> Exhibit, # <u>27</u> Exhibit, # <u>28</u> Exhibit, # <u>29</u> Exhibit, # <u>30</u> Exhibit, # <u>31</u> Exhibit, # <u>32</u> Exhibit, # <u>33</u> Exhibit, # <u>34</u> Exhibit, # <u>35</u> Exhibit, # <u>36</u> Exhibit, # <u>37</u> Exhibit, # <u>38</u> Exhibit, # <u>39</u> Exhibit, # <u>40</u> Exhibit, # <u>41</u> Exhibit) (rdz). (Additional attachment(s) added on 10/7/2016: # <u>42</u> Errata, # <u>43</u> Exhibit, # <u>45</u> Exhibit, # <u>46</u> Exhibit, # <u>47</u> Exhibit, # <u>48</u> Exhibit, # <u>49</u> Exhibit, # <u>50</u> Exhibit, # <u>51</u> Exhibit, # <u>52</u> Exhibit, # <u>53</u> Exhibit, # <u>54</u> Exhibit, # <u>55</u> Exhibit, # <u>56</u> Exhibit, # <u>57</u> Exhibit, # <u>58</u> Exhibit, # <u>59</u> Exhibit, # <u>60</u> Exhibit, # <u>61</u> Exhibit, # <u>62</u> Exhibit, # <u>63</u> Exhibit, # <u>64</u> Exhibit) (rdz). (Entered: 10/05/2016)
09/28/2016		Magistrate Judge Andrew J. Peck is so designated. (ad) (Entered: 09/28/2016)
09/28/2016		NOTICE OF CASE REASSIGNMENT to Judge Loretta A. Preska. Judge Unassigned is no longer assigned to the case. (ad) (Entered: 09/28/2016)
09/28/2016	<u>8</u>	(Court only) Screening Memo to Judge Recommending: Order of Service. Proposed Order deadline set for 10/11/2016. (Attachments: # <u>1</u> Text of Proposed Order) (bl) (Entered: 09/28/2016)
09/30/2016	<u>2</u>	ORDER TO ANSWER, 28 U.S.C. § 2254: The Clerk of Court shall serve a copy of this order and of the petition on the Attorney General of the State of New York by certified mail to 120 Broadway, New York, New York, 10271; and on the District Attorney for New York County by certified mail to One Hogan Place, New York, New York 10013. Within sixty days of the date of this order, Respondent shall file and serve (1) an answer to the petition and (2) the transcripts and briefs identified in Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts. Petitioner may file and serve reply papers, if any, within thirty days from the date he is served with Respondent's answer. The Court denies without prejudice Petitioner's motion to submit a 60-page brief. SO ORDERED. (Signed by Judge Loretta A. Preska on 9/30/2016) (kl) (Entered: 09/30/2016)
09/30/2016		Transmission to Docket Assistant Clerk. Transmitted re: <u>2</u> Order to Answer, to the Docket Assistant Clerk for case processing. (kl) (Entered: 09/30/2016)
09/30/2016		Mailed copies of <u>2</u> Petition for Writ of Habeas Corpus, <u>2</u> Order to Answer, to the Attorney General of the State of New York by certified mail#70022030000386752427 to 120 Broadway, New York, New York, 10271; and on the District Attorney for New York County by certified mail#70022030000386752113 to One Hogan Place, New York, New York 10013 with Return Receipts Requested. (ca) (Entered: 09/30/2016)
09/30/2016		Mailed a copy of <u>2</u> Order to Answer, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 09/30/2016)
09/30/2016		Habeas Information Mailed: Habeas Information Packet mailed to petitioner at the address noted on the petition/court's docket on 9/30/2016. (sbr) (Entered: 09/30/2016)
09/30/2016		(Court only) ***Motion(s) terminated: <u>6</u> MOTION Permission to submit a 60-Page Pro Se Brief in support of Petition. filed by Hugues-Denver Akassy.

		***Order to answer (Doc. 9) denied petitioner's request to file an oversized brief (Doc. 6) (mro) (Entered: 12/05/2016)
10/03/2016	<u>12</u>	LETTER from Hugues-Denver Akassy dated 9/19/16 re: PETITIONER'S PRO SE HABEAS CORPUS SUBMISSION UPDATE. Document filed by Hugues-Denver Akassy.(sc) (Entered: 10/06/2016)
10/12/2016		Received Return Receipt of Mail Order by Certified Mail, <u>2</u> Petition for Writ of Habeas Corpus, <u>9</u> Order to Answer, as to the Attorney General of the State of New York by certified mail#70022030000386752427 to 120 Broadway, New York, New York, 10271, on 10/05/2016. (ca) (Entered: 10/12/2016)
10/20/2016	<u>13</u>	LETTER from Hugues-Denver Akassy, dated 10/17/16 re: REQUESTING THE MANUAL FOR PRO SE LITIGANTS - FOR PETITIONER'S HABEAS CORPUS UNDER 28:2254 BY A PERSON IN STATE CUSTODY. Document filed by Hugues-Denver Akassy.(sc) (Entered: 10/21/2016)
10/20/2016	<u>0</u>	Request for Copy of updated Docket Sheet Received: Re <u>13</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 10/20/16. Transmission to Pro Se Assistants for processing. (sc) Modified on 10/21/2016 (sc). (Entered: 10/21/2016)
10/25/2016		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 10/25/2016. (sbr) (Entered: 10/25/2016)
11/21/2016	<u>14</u>	NOTICE OF APPEARANCE by Margaret Ann Cieprisz on behalf of Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 11/21/2016)
11/21/2016	<u>15</u>	FIRST LETTER MOTION for Extension of Time addressed to Magistrate Judge Andrew J. Peck from Margaret Cieprisz dated November 21, 2016. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 11/21/2016)
11/21/2016	<u>16</u>	ORDER with respect to <u>15</u> Letter Motion for Extension of Time. This case has not been referred. Make your request to Judge Preska. (Signed by Magistrate Judge Andrew J. Peck on 11/21/2016) Copies Mailed By Chambers. (cla) (Entered: 11/21/2016)
11/21/2016		(Court only) ***As per instructions from chambers, Motion(s) terminated (see dkt #16): <u>15</u> FIRST LETTER MOTION for Extension of Time addressed to Magistrate Judge Andrew J. Peck from Margaret Cieprisz dated November 21, 2016. filed by Michael Kirkpatrick. (tn) (Entered: 02/17/2017)
11/22/2016	<u>17</u>	LETTER MOTION for Extension of Time to File Answer addressed to Judge Loretta A. Preska from respondent dated 11/21/2016. Document filed by Michael Kirkpatrick.(Fleischmann, Lisa) (Entered: 11/22/2016)
12/01/2016	<u>18</u>	ORDER granting <u>17</u> Letter Motion for Extension of Time to Answer. SO ORDERED. Michael Kirkpatrick answer due 1/13/2017. (Signed by Judge Loretta A. Preska on 11/28/2016) (mro) (Entered: 12/01/2016)
12/01/2016	<u>20</u>	LETTER addressed to Magistrate Judge Andrew J. Peck from Hugues-Denver Akassy, dated 11/28/16 re: PETITIONER'S OPPOSITION TO THE

		RESPONDENT'S LETTER SEEKING 45 DAYS EXTENSION OF TIME IN VIOLATION OF COURT PROCEEDING RULE IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy. (sc) (Entered: 12/05/2016)
12/05/2016		Form Request Mailed: Request for Notice that the Pro Se Manual Has Been Discontinued from Hugues-Denver Akassy mailed on 12/5/2016. (sbr) (Entered: 12/05/2016)
12/05/2016	<u>19</u>	ORDER denying <u>10</u> Motion to Seal. The motion to seal is denied, and the Clerk of Court is directed to terminate it (ECF Doc. 10.) The Court certifies under 28 U.S.C. 1915 (a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). (Signed by Judge Loretta A. Preska on 12/5/2016) (tro) (Entered: 12/05/2016)
12/16/2016	<u>21</u>	FIRST LETTER MOTION to Compel addressed to Judge Loretta A. Preska from Margaret A. Cieprisz dated December 13, 2016. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 12/16/2016)
12/28/2016	<u>22</u>	LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy, dated 12/23/16 re: PETITIONER DID NOT RECEIVE JUDGE LORETTA A. PRESKA'S ORDER ON PETITIONER'S OPPOSITION TO THE RESPONDENT'S LETTER DATED 11/21/16, SEEKING A 45-DAY EXTENSION OF TIME. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/28/2016)
01/06/2017	<u>23</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Habeas Corpus. Referred to Magistrate Judge Andrew J. Peck. Motions referred to Andrew J. Peck. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/06/2017	<u>24</u>	ENDORSED LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy dated 12/28/16 re: On November 21, 2016, the Respondent submitted a letter to U.S. Magistrate Judge Andrew J. Peck, requesting a 45-day extension of time in violation of this Court's rule. But Judge Peck, in an Order dated November 21, 2016, made no decision and stated that "this case has not been referred. Make your request to Judge Preska." On November 28, 2016, I submitted a letter-as-motion in opposition to the Respondent's request of a 45-day extension of time. ENDORSEMENT: The Court does not see a letter of November 28 on the docket, but Petitioner is granted 45 days from the docketing of Respondent's brief to file its reply. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/06/2017	<u>25</u>	ORDER granting <u>21</u> Letter Motion to Compel. SO ORDERED. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/09/2017		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Katharine H. Parker. Please note that this is a reassignment of the

APPENDIX D (2)

HABEAS,CASREF,ECF,PRO-SE

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:16-cv-07201-LAP-KHP**

Akassy v. Kirkpatrick
Assigned to: Judge Loretta A. Preska
Referred to: Magistrate Judge Katharine H. Parker
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 09/15/2016
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner**Hugues-Denver Akassy**

represented by **Hugues-Denver Akassy**
11-A-5580
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929
PRO SE

V.

Respondent**Michael Kirkpatrick**

represented by **Lisa E. Fleischmann**
New York State Office of the Attorney
General
120 Broadway
New York, NY 10271
(212)-416-8802
Fax: (212)-416-8010
Email: lisa.fleischmann@ag.ny.gov
ATTORNEY TO BE NOTICED

Margaret Ann Cieprisz
New York State Office of the Attorney
General
120 Broadway
New York, NY 10271
(212)-416-8620
Fax: 212-637-2615
Email: margaret.cieprisz@ag.ny.gov
ATTORNEY TO BE NOTICED

**EVIDENCE OF
MAGISTRATE JUDGE PARKER'S
IMPERSONATION OF U.S. COURT
OF APPEALS JUDGE BARRINGTON
D. PARKER TO OVERTHROW U.S.
DISTRICT JUDGE PRESKA, SEE
DKT. No. 32**

Date Filed	#	Docket Text
09/15/2016	<u>1</u>	REQUEST TO PROCEED IN FORMA PAUPERIS(APPEALS). Document

		filed by Hugues-Denver Akassy.(rdz) Modified on 9/16/2016 (rdz). (Entered: 09/16/2016)
09/15/2016	<u>2</u>	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254. Document filed by Hugues-Denver Akassy. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(rdz) (Entered: 09/16/2016)
09/15/2016		Case Designated ECF. (rdz) (Entered: 09/16/2016)
09/15/2016	<u>3</u>	PRISONER AUTHORIZATION. Document filed by Hugues-Denver Akassy. (rdz) (Entered: 09/16/2016)
09/15/2016	<u>4</u>	AFFIRMATION in Support re: <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Hugues-Denver Akassy. (rdz) (Main Document 4 replaced on 3/31/2017) (tn). (Entered: 09/16/2016)
09/15/2016	<u>5</u>	LETTER from Hugues-Denver Akassy dated 9/9/2016 re: Requesting this Court Letter to Order the Clinton Correctional Facility's Mail Office to allow access of my Federal Habeas Petition. Document filed by Hugues-Denver Akassy.(rdz) (Main Document 5 replaced on 9/16/2016) (rdz). (Entered: 09/16/2016)
09/15/2016	<u>6</u>	MOTION for Permission to submit a 60-Page Pro Se Brief in support of Petition. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 09/16/2016)
09/26/2016	<u>7</u>	ORDER GRANTING IFP APPLICATION: Leave to proceed in this Court without prepayment of fees is authorized. 28 U.S.C. § 1915. (Signed by Judge Colleen McMahon on 9/26/2016) (vj) (Entered: 09/26/2016)
09/26/2016		Mailed a copy of <u>7</u> Order Granting IFP Application to Hugues-Denver Akassy. (vj) (Entered: 09/26/2016)
09/27/2016	<u>10</u>	MOTION to Seal certain exhibits and Court Record. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 10/05/2016)
09/28/2016		Magistrate Judge Andrew J. Peck is so designated. (ad) (Entered: 09/28/2016)
09/28/2016		NOTICE OF CASE REASSIGNMENT to Judge Loretta A. Preska. Judge Unassigned is no longer assigned to the case. (ad) (Entered: 09/28/2016)
09/30/2016	<u>9</u>	ORDER TO ANSWER, 28 U.S.C. § 2254: The Clerk of Court shall serve a copy of this order and of the petition on the Attorney General of the State of New York by certified mail to 120 Broadway, New York, New York, 10271; and on the District Attorney for New York County by certified mail to One Hogan Place, New York, New York 10013. Within sixty days of the date of this order, Respondent shall file and serve (1) an answer to the petition and (2) the transcripts and briefs identified in Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts. Petitioner may file and serve reply papers, if any, within thirty days from the date he is served with Respondent's answer. The Court denies without prejudice Petitioner's motion to submit a 60-page brief. SO ORDERED. (Signed by Judge Loretta A. Preska on 9/30/2016) (kl) (Entered: 09/30/2016)

09/30/2016		Transmission to Docket Assistant Clerk. Transmitted re: <u>9</u> Order to Answer, to the Docket Assistant Clerk for case processing. (kl) (Entered: 09/30/2016)
09/30/2016		Mailed copies of <u>2</u> Petition for Writ of Habeas Corpus, <u>9</u> Order to Answer, to the Attorney General of the State of New York by certified mail#70022030000386752427 to 120 Broadway, New York, New York, 10271; and on the District Attorney for New York County by certified mail#70022030000386752113 to One Hogan Place, New York, New York 10013 with Return Receipts Requested. (ca) (Entered: 09/30/2016)
09/30/2016		Mailed a copy of <u>9</u> Order to Answer, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 09/30/2016)
09/30/2016		Habeas Information Mailed: Habeas Information Packet mailed to petitioner at the address noted on the petition/court's docket on 9/30/2016. (sbr) (Entered: 09/30/2016)
10/03/2016	<u>12</u>	LETTER from Hugues-Denver Akassy dated 9/19/16 re: PETITIONER'S PRO SE HABEAS CORPUS SUBMISSION UPDATE. Document filed by Hugues-Denver Akassy.(sc) (Entered: 10/06/2016)
10/12/2016		Received Return Receipt of Mail Order by Certified Mail, <u>2</u> Petition for Writ of Habeas Corpus, <u>9</u> Order to Answer, as to the Attorney General of the State of New York by certified mail#70022030000386752427 to 120 Broadway, New York, New York, 10271, on 10/05/2016. (ca) (Entered: 10/12/2016)
10/20/2016	<u>13</u>	LETTER from Hugues-Denver Akassy, dated 10/17/16 re: REQUESTING THE MANUAL FOR PRO SE LITIGANTS - FOR PETITIONER'S HABEAS CORPUS UNDER 28:2254 BY A PERSON IN STATE CUSTODY. Document filed by Hugues-Denver Akassy.(sc) (Entered: 10/21/2016)
10/20/2016	<u>0</u>	Request for Copy of updated Docket Sheet Received: Re <u>13</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 10/20/16. Transmission to Pro Se Assistants for processing. (sc) Modified on 10/21/2016 (sc). (Entered: 10/21/2016)
10/25/2016		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 10/25/2016. (sbr) (Entered: 10/25/2016)
11/21/2016	<u>14</u>	NOTICE OF APPEARANCE by Margaret Ann Cieprisz on behalf of Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 11/21/2016)
11/21/2016	<u>15</u>	FIRST LETTER MOTION for Extension of Time addressed to Magistrate Judge Andrew J. Peck from Margaret Cieprisz dated November 21, 2016. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 11/21/2016)
11/21/2016	<u>16</u>	ORDER with respect to <u>15</u> Letter Motion for Extension of Time. This case has not been referred. Make your request to Judge Preska. (Signed by Magistrate Judge Andrew J. Peck on 11/21/2016) Copies Mailed By Chambers. (cla) (Entered: 11/21/2016)

11/22/2016	<u>17</u>	LETTER MOTION for Extension of Time to File Answer addressed to Judge Loretta A. Preska from respondent dated 11/21/2016. Document filed by Michael Kirkpatrick.(Fleischmann, Lisa) (Entered: 11/22/2016)
12/01/2016	<u>18</u>	ORDER granting <u>17</u> Letter Motion for Extension of Time to Answer. SO ORDERED. Michael Kirkpatrick answer due 1/13/2017. (Signed by Judge Loretta A. Preska on 11/28/2016) (mro) (Entered: 12/01/2016)
12/01/2016	<u>20</u>	LETTER addressed to Magistrate Judge Andrew J. Peck from Hugues-Denver Akassy, dated 11/28/16 re: PETITIONER'S OPPOSITION TO THE RESPONDENT'S LETTER SEEKING 45 DAYS EXTENSION OF TIME IN VIOLATION OF COURT PROCEEDING RULE IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/05/2016)
12/05/2016		Form Request Mailed: Request for Notice that the Pro Se Manual Has Been Discontinued from Hugues-Denver Akassy mailed on 12/5/2016. (sbr) (Entered: 12/05/2016)
12/05/2016	<u>19</u>	ORDER denying <u>10</u> Motion to Seal. The motion to seal is denied, and the Clerk of Court is directed to terminate it (ECF Doc. 10.) The Court certifies under 28 U.S.C. 1915 (a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). (Signed by Judge Loretta A. Preska on 12/5/2016) (tro) (Entered: 12/05/2016)
12/16/2016	<u>21</u>	FIRST LETTER MOTION to Compel addressed to Judge Loretta A. Preska from Margaret A. Cieprisz dated December 13, 2016. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 12/16/2016)
12/28/2016	<u>22</u>	LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy, dated 12/23/16 re: PETITIONER DID NOT RECEIVE JUDGE LORETTA A. PRESKA'S ORDER ON PETITIONER'S OPPOSITION TO THE RESPONDENT'S LETTER DATED 11/21/16, SEEKING A 45-DAY EXTENSION OF TIME. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/28/2016)
01/06/2017	<u>23</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Habeas Corpus. Referred to Magistrate Judge Andrew J. Peck. Motions referred to Andrew J. Peck. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/06/2017	<u>24</u>	ENDORSED LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy dated 12/28/16 re: On November 21, 2016, the Respondent submitted a letter to U.S. Magistrate Judge Andrew J. Peck, requesting a 45-day extension of time in violation of this Court's rule. But Judge Peck, in an Order dated November 21, 2016, made no decision and stated that "this case has not been referred. Make your request to Judge Preska." On November 28, 2016, I

		submitted a letter-as-motion in opposition to the Respondent's request of a 45-day extension of time. ENDORSEMENT: The Court does not see a letter of November 28 on the docket, but Petitioner is granted 45 days from the docketing of Respondent's brief to file its reply. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/06/2017	<u>25</u>	ORDER granting <u>21</u> Letter Motion to Compel. SO ORDERED. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/09/2017 ✓		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Katharine H. Parker. Please note that this is a reassignment of the designation only. (wb) (Entered: 01/09/2017)
01/09/2017 ✓		NOTICE OF REASSIGNMENT OF A REFERRAL TO ANOTHER MAGISTRATE JUDGE. The referral in the above entitled action has been reassigned to Magistrate Judge Katharine H. Parker, for Habeas Corpus. Magistrate Judge Andrew J. Peck no longer referred to the case. Motions referred to Katharine H. Parker. (wb) (Entered: 01/09/2017)
01/11/2017	<u>26</u>	SECOND LETTER MOTION for Extension of Time addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated January 11, 2017. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 01/11/2017)
01/12/2017	<u>27</u>	ORDER granting <u>26</u> Letter Motion for Extension of Time. APPLICATION GRANTED. Respondent's deadline to file its response brief is extended from January 13, 2017 to February 10, 2017. (Signed by Magistrate Judge Katharine H. Parker on 1/12/2017) (kgo) (Entered: 01/12/2017)
01/12/2017		Set/Reset Deadlines: Michael Kirkpatrick answer due 2/10/2017. (kgo) (Entered: 01/12/2017)
01/12/2017		Mailed a copy of <u>27</u> Order on Motion for Extension of Time, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 01/12/2017)
01/12/2017	<u>28</u>	LETTER from Hugues-Denver Akassy dated 1/9/17 re: Petitioner requests that the Court send him a copy of the updated docket sheet; and he requests Judge Preska's orders upon the two requests by the respondent etc. Document filed by Hugues-Denver Akassy.(sc) (Entered: 01/16/2017)
01/12/2017		Request for Copy of the updated Docket Sheet Received: Re <u>28</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 1/12/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 01/16/2017)
01/17/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 1/17/17. (sbr) (Entered: 01/17/2017)
02/08/2017	<u>29</u>	THIRD LETTER MOTION for Extension of Time to File Answer addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated February 8, 2017. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 02/08/2017)

		02/08/2017)
02/08/2017	<u>30</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - FIRST MOTION to Seal Document . Document filed by Michael Kirkpatrick. (Attachments: # <u>1</u> Declaration, # <u>2</u> Memorandum of Law, # <u>3</u> Proposed Order, # <u>4</u> Declaration of Service)(Cieprisz, Margaret) Modified on 3/7/2017 (ldi). (Entered: 02/08/2017)
02/10/2017	<u>31</u>	ORDER granting <u>29</u> Letter Motion for Extension of Time to Answer. Application granted. Respondent's deadline to file its response is extended from February 10, 2017 to February 24, 2017. Petitioner's reply brief is due April 10, 2017. Michael Kirkpatrick answer due 2/24/2017. (Signed by Magistrate Judge Katharine H. Parker on 2/10/2017) (jwh) (Entered: 02/10/2017)
02/10/2017		Set/Reset Deadlines: Replies due by 4/10/2017. (jwh) (Entered: 02/10/2017)
02/10/2017	<u>32</u>	SEALING ORDER granting <u>30</u> Motion to Seal Document 4 Affirmation in Support, <u>2</u> Petition for Writ of Habeas Corpus. Respondent's motion is granted. As to the state court record, the state court transcripts and Document No. 2 and No. 4, the Court finds that the presumption of public access to Court documents is outweighed by the interest in protecting the identity of the rape victim in this case and by the federal-state comity interest in deferring to Civil Rights Law § 50-b. Because the name of the victim and other information tending to identify the victim appears ubiquitously throughout the documents in question, redaction would be burdensome and likely infeasible. The Clerk of the Court shall: (1) file under seal the "State Court Record" and "Transcripts" and (2) seal the documents filed by petitioner as Document No. 2 and No. 4. (Signed by Judge Barrington D. Parker on 2/10/2017) (cla) (Entered: 02/10/2017)
02/10/2017		Transmission to Sealed Records Clerk. Transmitted re: <u>32</u> Order on Motion to Seal Document, to the Sealed Records Clerk for the sealing or unsealing of document or case. (cla) (Entered: 02/10/2017)
02/10/2017	<u>34</u>	MOTION re: deny a third extension of time to the respondent. Document filed by Hugues-Denver Akassy.(sac) (Entered: 02/13/2017)
02/13/2017	<u>33</u>	SEALED DOCUMENT placed in vault.(mps) (Entered: 02/13/2017)
02/15/2017	<u>35</u>	MEMO ENDORSEMENT denying as moot <u>34</u> Motion re: deny a third extension of time to the respondent. ENDORSEMENT: APPLICATION DENIED. Having previously granted Respondent's request to extend the deadline to file its response brief (doc. no. 31), Petitioner's request is denied as moot. Respondent's response is due February 24, 2017 and Petitioner's reply brief is due April 10, 2017. (Signed by Magistrate Judge Katharine H. Parker on 2/15/2017) (mro) (Entered: 02/15/2017)
02/15/2017		Set/Reset Deadlines: Responses due by 2/24/2017 (mro) (Entered: 02/15/2017)
02/22/2017		Request for Copy of the updated docket Sheet Received: Re <u>36</u> Letter. Request for Docket Report, Court Orders from Hugues-Denver Akassy received on 2/23/17. Transmission to Records Management for processing Orders(Doc. #16, #18, #19, #23, #25, #27, #31& #32; and Transmission to Pro Se Assistants for processing Docket sheet. (sc) (Entered: 02/23/2017)

02/23/2017	<u>36</u>	LETTER from Hugues-Denver Akassy, dated 2/15/17 re: REQUESTING THIS CASE COURT DOCKET & PRINT COPIES OF COURT ORDERS. Document filed by Hugues-Denver Akassy.(sc) (Entered: 02/23/2017)
02/23/2017	<u>37</u>	(Affirmation)PETITIONER'S RESPONSE TO THE RESPONDENT'S DECLARATION IN SUPPORT OF MOTION FOR SEALING ORDER; re: 11 Declaration. Document filed by Hugues-Denver Akassy. (sc) (Main Document 37 replaced on 2/28/2017) (cf). (Entered: 02/23/2017)
02/23/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 2/23/2017. (sbr) (Entered: 02/23/2017)
02/24/2017	<u>38</u>	MEMORANDUM OF LAW in Opposition to <i>Habeas Petition</i> . Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 02/24/2017)
02/24/2017	<u>39</u>	RESPONSE to <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 02/24/2017)
02/24/2017	<u>40</u>	AFFIDAVIT OF SERVICE of Answer, Memorandum of Law, Appendix of State Court Records, Cases with Electronic Citations served on Hugues-Denver Akassy on February 24, 2017. Service was made by Mail. Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 02/24/2017)
02/24/2017	<u>41</u>	MEMO ENDORSEMENT on re: <u>37</u> Affirmation filed by Hugues-Denver Akassy. ENDORSEMENT: APPLICATION DENIED. Having previously granted Respondent's request to seal certain documents (doc. no. 32), Petitioner's request is denied as moot. (Signed by Magistrate Judge Katharine H. Parker on 2/24/2017) (jwh) (Entered: 02/24/2017)
02/27/2017	<u>42</u>	LETTER MOTION to Seal Document <i>Number 37</i> addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated February 27, 2017. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 02/27/2017)
02/28/2017	<u>43</u>	ORDER granting <u>42</u> Motion to Seal Document. APPLICATION GRANTED. The clerk is directed to substitute document no. 37 with the document attached to this letter beginning on page 4 and ending on page 14. Further, for all future submissions to the Court, Petitioner is ordered to provide the initials of T.A., the individual identified in paragraph 5 of Petitioner's February 15, 2017 letter (doc. no. 37), rather than the individual's full name. (Signed by Magistrate Judge Katharine H. Parker on 2/28/2017) (cf) (Entered: 02/28/2017)
03/02/2017	<u>44</u>	SEALED DOCUMENT placed in vault.(rz) (Entered: 03/02/2017)
03/06/2017	<u>45</u>	MOTION FOR RECONSIDERATION ON THE RESPONDENT'S MOTION TO SEAL PETITIONER'S WRIT OF HABEAS CORPUS PETITION DOCUMENTS NOS. 2 & 4; re: <u>32</u> Order on Motion to Seal Document. Document filed by Hugues-Denver Akassy.(sc) (Main Document 45 replaced on 3/15/2017) (jwh). (Additional attachment(s) added on 3/15/2017: # <u>1</u> Part 2, # <u>2</u> Part 3, # <u>3</u> Part 4, # <u>4</u> Part 5, # <u>5</u> Part 6, # <u>6</u> Part 7) (jwh). (Entered: 03/07/2017)

03/08/2017	<u>46</u>	LETTER MOTION to Seal Document <u>45</u> MOTION for Reconsideration re; <u>32</u> Order on Motion to Seal Document,,, addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated March 8, 2017. Document filed by Michael Kirkpatrick. (Attachments: # <u>1</u> Redacted Doc. No. 45, # <u>2</u> Redacted Doc. No. 45, # <u>3</u> Redacted Doc. No. 45, # <u>4</u> Redacted Doc. No. 45, # <u>5</u> Redacted Doc. No. 45, # <u>6</u> Redacted Doc. No. 45, # <u>7</u> Redacted Doc. No. 45) (Cieprisz, Margaret) (Entered: 03/08/2017)
03/13/2017	<u>47</u>	MOTION FOR RECONSIDERATION ON THE RESPONDENT'S MOTION TO SEAL PETITIONER'S WRIT OF HABEAS CORPUS PETITION, DOCUMENTS NOS. 2 & 4 re; <u>43</u> Order on Motion to Seal Document. Document filed by Hugues-Denver Akassy.(sc) (Main Document 47 replaced on 3/15/2017) (jwh). (Additional attachment(s) added on 3/15/2017: # <u>1</u> Part 2, # <u>2</u> Part 3, # <u>3</u> Part 4, # <u>4</u> Part 5, # <u>5</u> Part 6, # <u>6</u> Part 7) (jwh). (Entered: 03/13/2017)
03/15/2017	<u>48</u>	ORDER denying <u>45</u> Motion for Reconsideration ; granting <u>46</u> Letter Motion to Seal Document ; denying <u>47</u> Motion for Reconsideration: Presently before the Court are Petitioner's motions for reconsideration of the Court's order sealing document numbers 2 and 4, (doc. nos. 45, 47), and Respondent's motion to seal the current document 45 and replace it with a redacted version (doc. no. 46). For the reasons set forth in Respondent's motion to seal (doc. no. 46), Petitioners' motions are DENIED and Respondent's motion is GRANTED. Petitioner is reminded that for all future submissions to the Court, Petitioner is ordered to provide the initials of T.A., the individual identified in paragraph 5 of Petitioner's February 15, 2017 letter (doc. no. 37), rather than the individual's full name. The Clerk is directed to replace document numbers 45 and 47 with the attachments to document number 46. The clerk is also directed to terminate the motions pending at document numbers 45, 46, and 47. (Signed by Magistrate Judge Katharine H. Parker on 3/15/2017) (jwh) (Entered: 03/15/2017)
03/21/2017	<u>49</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy, dated 3/9/17 re: SUBSTITUTING REDACTED PETITIONER'S AFFIRMATION DOCUMENT NO. 4 IN THE MATTER OF AKASSY V. KIRKPATRICK, NO. 16-CV-7201. Document filed by Hugues-Denver Akassy.(sc) (Entered: 03/22/2017)
03/23/2017	<u>50</u>	MEMO ENDORSEMENT on re: <u>49</u> Letter, filed by Hugues-Denver Akassy. ENDORSEMENT: Application granted. The Clerk of the Court is directed to substitute Petitioner's redacted Affirmation for the the one originally filed at Docket No. 4. (Signed by Magistrate Judge Katharine H. Parker on 3/23/2017) (jwh) (Entered: 03/23/2017)
03/24/2017		Mailed a copy of <u>50</u> Memo Endorsement, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 03/24/2017)
03/30/2017	<u>51</u>	REPLY MEMORANDUM OF LAW in Further Support re: <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Hugues-Denver Akassy. (Attachments: #

		<u>1</u> Main Document, # <u>2</u> Main Document)(sac) (Entered: 03/31/2017)
04/06/2017	<u>52</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy dated 4/3/17 re: REQUESTING CORRECTION OF YEAR OF EVENT IN REPLY MEMORNDUM OF LAW IN THE MATTER OF AKASSY v. KIRKPATRICK, NO. 16-CV-7201. Document filed by Hugues-Denver Akassy.(sc) (Entered: 04/06/2017)
04/06/2017	<u>53</u>	LETTER from Hugues-Denver Akassy, dated 3/31/17 re: REQUESTING THE COURT DOCKET OF POST PETITIONER'S REPLY. Document filed by Hugues-Denver Akassy.(sc) (Entered: 04/07/2017)
04/06/2017		Request for Copy of the updated Docket Sheet Received: Re <u>53</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 4/6/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 04/07/2017)
04/10/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 4/10/2017. (sbr) (Entered: 04/10/2017)
06/29/2017	<u>54</u>	LETTER from Hugues-Denver Akassy dated 6/26/17 re: Petitioner requests that the Court provide him/her with an updated docket sheet. Document filed by Hugues-Denver Akassy.(sc) (Entered: 06/29/2017)
06/29/2017		Request for Copy of the updated Docket Sheet Received: Re <u>54</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 6/29/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 06/29/2017)
06/29/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 6/29/2017. (sbr) (Entered: 06/29/2017)
07/12/2017	<u>55</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy, dated 7/7/17 re: LETTER AS MOTION SEEKING PERMISSION TO AMEND COURT EVIDENCE. Document filed by Hugues-Denver Akassy.(sc) (Entered: 07/12/2017)
07/13/2017		***DELETED DOCUMENT. Deleted document number <u>56</u> Memo Endorsement. The document was incorrectly filed in this case. (yv) (Entered: 07/13/2017)
07/13/2017	<u>56</u>	MEMO ENDORSEMENT on re: <u>55</u> Letter request to amend a court order, filed by Hugues-Denver Akassy. ENDORSEMENT: Respondent shall file a response to Petitioner's Letter Motion by July 27, 2017, after which the Court will make a decision on Petitioner's motion. No reply shall be permitted. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 7/13/17) (yv) (Main Document 56 replaced on 7/13/2017) (yv). (Entered: 07/13/2017)
07/21/2017	<u>57</u>	RESPONSE to Motion re: <u>47</u> MOTION for Reconsideration re; <u>43</u> Order on Motion to Seal Document,, <i>Response to Doc. 56</i> . Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 07/21/2017)
07/26/2017	<u>58</u>	LETTER from Hugues-Denver Akassy, dated 7/24/17 re: Petitioner requests that the Court provide him/her with a copy of the updated docket sheet in this case. Document filed by Hugues-Denver Akassy.(sc) (Entered: 07/27/2017)

07/26/2017		Request for Copy of the updated Docket Sheet Received: Re <u>58</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 7/26/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 07/27/2017)
08/01/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 8/1/2017. (sbr) (Entered: 08/01/2017)
08/08/2017	<u>59</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy, dated 7/31/17 re: LETTER-AS-MOTION SEEKING PERMISSION TO AMEND COMPLETE RAP-SHEET AS COURT EVIDENCE IN RESPONSE TO RESPONDENT'S ANSWER IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 08/08/2017)
08/23/2017	<u>60</u>	LETTER from Hugues-Denver Akassy dated 8/21/17 re: REQUESTING DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 08/24/2017)
08/23/2017	<u>0</u>	Request for Copy of the updated Docket Sheet Received: Re <u>60</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 8/23/17. Transmission to Pro Se Assistants for processing. (sc) Modified on 8/24/2017 (sc). (Entered: 08/24/2017)
08/24/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 8/24/2017. (sbr) (Entered: 08/24/2017)
11/21/2017	<u>61</u>	LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy, dated 11/15/17 re: REQUESTING SPEEDY DECISION ON HABEAS CORPUS FOR HEALTH CONCERNS & IMMIGRATION REMOVAL PROCEEDINGS DECISION IN THE MATTER OF AKASSY v. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 11/21/2017)
12/20/2017	<u>62</u>	LETTER from Hugues-Denver Akassy dated 12/18/17 re: REQUESTING THE COURT DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/21/2017)
12/20/2017		Request for Copy of the updated Docket Sheet Received: Re <u>62</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 12/20/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 12/21/2017)
12/21/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 12/21/2017. (sbr) (Entered: 12/21/2017)
01/05/2018	<u>63</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from H. Akassy dated 12/27/17 re: SEEKING COURT ORDERS ON HABEAS CORPUS & SPEEDY DECISION. Document filed by Hugues-Denver Akassy.(sc) (Entered: 01/05/2018)
02/15/2018	<u>64</u>	LETTER from Hugues-Denver Akassy, dated 2/12/18 re: REQUESTING DOCKET SHEET AND AWAITING THE MAGISTRATE JUDGE'S

	DECISION IN THE MATTER OF AKASSY v. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 02/16/2018)
02/15/2018	Request for Copy of the updated Docket Sheet Received: Re <u>64</u> Letter. Request for Docket Report, from H. Akassy received on 2/15/18. Transmission to Pro Se Assistants for processing. (sc) (Entered: 02/16/2018)

PACER Service Center			
Transaction Receipt			
02/16/2018 11:53:25			
PACER Login:	us5070	Client Code:	
Description:	Docket Report	Search Criteria:	1:16-cv-07201-LAP-KHP
Billable Pages:	8	Cost:	0.80

APPENDIX D (3)

CLOSED, APPEAL, HABEAS, CASREF, ECF, PRO-SE
U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:16-cv-07201-LAP-KHP

Akassy v. Kirkpatrick
Assigned to: Judge Loretta A. Preska
Referred to: Magistrate Judge Katharine H. Parker
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 09/15/2016
Date Terminated: 07/16/2020
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner

Hugues-Denver Akassy

represented by **Hugues-Denver Akassy**
11-A-5580
Wende C.F.
Wende Rd.
P.O. Box 1187
Alden, NY 14004-1187
PRO SE

V.

Respondent

Michael Kirkpatrick

represented by **Lisa E. Fleischmann**
New York State Office of the Attorney
General
120 Broadway
New York, NY 10271
(212)-416-8802
Fax: (212)-416-8010
Email: lisa.fleischmann@ag.ny.gov
ATTORNEY TO BE NOTICED

Margaret Ann Cieprisz
New York State Office of the Attorney
General (28 Liberty)
28 Liberty Street, 15th Floor
New York, NY 10005
(212)-416-8620
Fax: 212-637-2615
Email: margaret.cieprisz@ag.ny.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/15/2016	<u>1</u>	REQUEST TO PROCEED IN FORMA PAUPERIS(APPEALS). Document filed by Hugues-Denver Akassy.(rdz) Modified on 9/16/2016 (rdz). (Entered: 09/16/2016)
09/15/2016	<u>2</u>	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254. Document filed by Hugues-Denver Akassy. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(rdz) (Entered: 09/16/2016)
09/15/2016		Case Designated ECF. (rdz) (Entered: 09/16/2016)
09/15/2016	<u>3</u>	PRISONER AUTHORIZATION. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 09/16/2016)
09/15/2016	<u>4</u>	AFFIRMATION in Support re: <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Hugues-Denver Akassy. (rdz) (Main Document 4 replaced on 3/31/2017) (tn). (Entered: 09/16/2016)

09/15/2016	<u>5</u>	LETTER from Hugues-Denver Akassy dated 9/9/2016 re: Requesting this Court Letter to Order the Clinton Correctional Facility's Mail Office to allow access of my Federal Habeas Petition. Document filed by Hugues-Denver Akassy.(rdz) (Main Document 5 replaced on 9/16/2016) (rdz). (Entered: 09/16/2016)
09/15/2016	<u>6</u>	MOTION for Permission to submit a 60-Page Pro Se Brief in support of Petition. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 09/16/2016)
09/26/2016	<u>7</u>	ORDER GRANTING IFP APPLICATION: Leave to proceed in this Court without prepayment of fees is authorized. 28 U.S.C. § 1915. (Signed by Judge Colleen McMahon on 9/26/2016) (vj) (Entered: 09/26/2016)
09/26/2016		Mailed a copy of <u>7</u> Order Granting IFP Application to Hugues-Denver Akassy. (vj) (Entered: 09/26/2016)
09/27/2016	<u>10</u>	MOTION to Seal certain exhibits and Court Record. Document filed by Hugues-Denver Akassy.(rdz) (Entered: 10/05/2016)
09/28/2016		Magistrate Judge Andrew J. Peck is so designated. (ad) (Entered: 09/28/2016)
09/28/2016		NOTICE OF CASE REASSIGNMENT to Judge Loretta A. Preska. Judge Unassigned is no longer assigned to the case. (ad) (Entered: 09/28/2016)
09/30/2016	<u>9</u>	ORDER TO ANSWER, 28 U.S.C. § 2254: The Clerk of Court shall serve a copy of this order and of the petition on the Attorney General of the State of New York by certified mail to 120 Broadway, New York, New York, 10271; and on the District Attorney for New York County by certified mail to One Hogan Place, New York, New York 10013. Within sixty days of the date of this order, Respondent shall file and serve (1) an answer to the petition and (2) the transcripts and briefs identified in Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts. Petitioner may file and serve reply papers, if any, within thirty days from the date he is served with Respondent's answer. The Court denies without prejudice Petitioner's motion to submit a 60-page brief. SO ORDERED. (Signed by Judge Loretta A. Preska on 9/30/2016) (kl) (Entered: 09/30/2016)
09/30/2016		Transmission to Docket Assistant Clerk. Transmitted re: <u>9</u> Order to Answer, to the Docket Assistant Clerk for case processing. (kl) (Entered: 09/30/2016)
09/30/2016		Mailed copies of <u>2</u> Petition for Writ of Habeas Corpus, <u>9</u> Order to Answer, to the Attorney General of the State of New York by certified mail#70022030000386752427 to 120 Broadway, New York, New York, 10271; and on the District Attorney for New York County by certified mail#70022030000386752113 to One Hogan Place, New York, New York 10013 with Return Receipts Requested. (ca) (Entered: 09/30/2016)
09/30/2016		Mailed a copy of <u>9</u> Order to Answer, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 09/30/2016)
09/30/2016		Habeas Information Mailed: Habeas Information Packet mailed to petitioner at the address noted on the petition/court's docket on 9/30/2016. (sbr) (Entered: 09/30/2016)
10/03/2016	<u>12</u>	LETTER from Hugues-Denver Akassy dated 9/19/16 re: PETITIONER'S PRO SE HABEAS CORPUS SUBMISSION UPDATE. Document filed by Hugues-Denver Akassy.(sc) (Entered: 10/06/2016)
10/12/2016		Received Return Receipt of Mail Order by Certified Mail, <u>2</u> Petition for Writ of Habeas Corpus, <u>9</u> Order to Answer, as to the Attorney General of the State of New York by certified mail#70022030000386752427 to 120 Broadway, New York, New York, 10271, on 10/05/2016. (ca) (Entered: 10/12/2016)
10/20/2016	<u>13</u>	LETTER from Hugues-Denver Akassy, dated 10/17/16 re: REQUESTING THE MANUAL FOR PRO SE LITIGANTS - FOR PETITIONER'S HABEAS CORPUS UNDER 28:2254 BY A PERSON IN STATE CUSTODY. Document filed by Hugues-Denver Akassy.(sc) (Entered: 10/21/2016)
10/20/2016	<u>0</u>	Request for Copy of updated Docket Sheet Received: Re <u>13</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 10/20/16. Transmission to Pro Se Assistants for processing. (sc) Modified on 10/21/2016 (sc). (Entered: 10/21/2016)

10/25/2016		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 10/25/2016. (sbr) (Entered: 10/25/2016)
11/21/2016	<u>14</u>	NOTICE OF APPEARANCE by Margaret Ann Cieprisz on behalf of Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 11/21/2016)
11/21/2016	<u>15</u>	FIRST LETTER MOTION for Extension of Time addressed to Magistrate Judge Andrew J. Peck from Margaret Cieprisz dated November 21, 2016. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 11/21/2016)
11/21/2016	<u>16</u>	ORDER with respect to <u>15</u> Letter Motion for Extension of Time. This case has not been referred. Make your request to Judge Preska. (Signed by Magistrate Judge Andrew J. Peck on 11/21/2016) Copies Mailed By Chambers. (cla) (Entered: 11/21/2016)
11/22/2016	<u>17</u>	LETTER MOTION for Extension of Time to File Answer addressed to Judge Loretta A. Preska from respondent dated 11/21/2016. Document filed by Michael Kirkpatrick.(Fleischmann, Lisa) (Entered: 11/22/2016)
12/01/2016	<u>18</u>	ORDER granting <u>17</u> Letter Motion for Extension of Time to Answer. SO ORDERED. Michael Kirkpatrick answer due 1/13/2017. (Signed by Judge Loretta A. Preska on 11/28/2016) (mro) (Entered: 12/01/2016)
12/01/2016	<u>20</u>	LETTER addressed to Magistrate Judge Andrew J. Peck from Hugues-Denver Akassy, dated 11/28/16 re: PETITIONER'S OPPOSITION TO THE RESPONDENT'S LETTER SEEKING 45 DAYS EXTENSION OF TIME IN VIOLATION OF COURT PROCEEDING RULE IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/05/2016)
12/05/2016		Form Request Mailed: Request for Notice that the Pro Se Manual Has Been Discontinued from Hugues-Denver Akassy mailed on 12/5/2016. (sbr) (Entered: 12/05/2016)
12/05/2016	<u>19</u>	ORDER denying <u>10</u> Motion to Seal. The motion to seal is denied, and the Clerk of Court is directed to terminate it (ECF Doc. 10.) The Court certifies under 28 U.S.C. 1915 (a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). (Signed by Judge Loretta A. Preska on 12/5/2016) (tro) (Entered: 12/05/2016)
12/16/2016	<u>21</u>	FIRST LETTER MOTION to Compel addressed to Judge Loretta A. Preska from Margaret A. Cieprisz dated December 13, 2016. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 12/16/2016)
12/28/2016	<u>22</u>	LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy, dated 12/23/16 re: PETITIONER DID NOT RECEIVE JUDGE LORETTA A. PRESKA'S ORDER ON PETITIONER'S OPPOSITION TO THE RESPONDENT'S LETTER DATED 11/21/16, SEEKING A 45-DAY EXTENSION OF TIME. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/28/2016)
01/06/2017	<u>23</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Habeas Corpus. Referred to Magistrate Judge Andrew J. Peck. Motions referred to Andrew J. Peck. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/06/2017	<u>24</u>	ENDORSED LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy dated 12/28/16 re: On November 21, 2016, the Respondent submitted a letter to U.S. Magistrate Judge Andrew J. Peck, requesting a 45-day extension of time in violation of this Court's rule. But Judge Peck, in an Order dated November 21, 2016, made no decision and stated that "this case has not been referred. Make your request to Judge Preska." On November 28, 2016, I submitted a letter-as-motion in opposition to the Respondent's request of a 45-day extension of time. ENDORSEMENT: The Court does not see a letter of November 28 on the docket, but Petitioner is granted 45 days from the docketing of Respondent's brief to file its reply. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)

01/06/2017	<u>25</u>	ORDER granting <u>21</u> Letter Motion to Compel. SO ORDERED. (Signed by Judge Loretta A. Preska on 1/6/2017) (mro) (Entered: 01/06/2017)
01/09/2017		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Katharine H. Parker. Please note that this is a reassignment of the designation only. (wb) (Entered: 01/09/2017)
01/09/2017		NOTICE OF REASSIGNMENT OF A REFERRAL TO ANOTHER MAGISTRATE JUDGE. The referral in the above entitled action has been reassigned to Magistrate Judge Katharine H. Parker, for Habeas Corpus. Magistrate Judge Andrew J. Peck no longer referred to the case. Motions referred to Katharine H. Parker. (wb) (Entered: 01/09/2017)
01/11/2017	<u>26</u>	SECOND LETTER MOTION for Extension of Time addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated January 11, 2017. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 01/11/2017)
01/12/2017	<u>27</u>	ORDER granting <u>26</u> Letter Motion for Extension of Time. APPLICATION GRANTED. Respondent's deadline to file its response brief is extended from January 13, 2017 to February 10, 2017. (Signed by Magistrate Judge Katharine H. Parker on 1/12/2017) (kgo) (Entered: 01/12/2017)
01/12/2017		Set/Reset Deadlines: Michael Kirkpatrick answer due 2/10/2017. (kgo) (Entered: 01/12/2017)
01/12/2017		Mailed a copy of <u>27</u> Order on Motion for Extension of Time, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 01/12/2017)
01/12/2017	<u>28</u>	LETTER from Hugues-Denver Akassy dated 1/9/17 re: Petitioner requests that the Court send him a copy of the updated docket sheet; and he requests Judge Preska's orders upon the two requests by the respondent etc. Document filed by Hugues-Denver Akassy.(sc) (Entered: 01/16/2017)
01/12/2017		Request for Copy of the updated Docket Sheet Received: Re <u>28</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 1/12/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 01/16/2017)
01/17/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 1/17/17. (sbr) (Entered: 01/17/2017)
02/08/2017	<u>29</u>	THIRD LETTER MOTION for Extension of Time to File Answer addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated February 8, 2017. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 02/08/2017)
02/08/2017	<u>30</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – FIRST MOTION to Seal Document . Document filed by Michael Kirkpatrick. (Attachments: # <u>1</u> Declaration, # <u>2</u> Memorandum of Law, # <u>3</u> Proposed Order, # <u>4</u> Declaration of Service)(Cieprisz, Margaret) Modified on 3/7/2017 (ldi). (Entered: 02/08/2017)
02/10/2017	<u>31</u>	ORDER granting <u>29</u> Letter Motion for Extension of Time to Answer. Application granted. Respondent's deadline to file its response is extended from February 10, 2017 to February 24, 2017. Petitioner's reply brief is due April 10, 2017. Michael Kirkpatrick answer due 2/24/2017. (Signed by Magistrate Judge Katharine H. Parker on 2/10/2017) (jwh) (Entered: 02/10/2017)
02/10/2017		Set/Reset Deadlines: Replies due by 4/10/2017. (jwh) (Entered: 02/10/2017)
02/10/2017	<u>32</u>	SEALING ORDER granting <u>30</u> Motion to Seal Document <u>4</u> Affirmation in Support, <u>2</u> Petition for Writ of Habeas Corpus. Respondent's motion is granted. As to the state court record, the state court transcripts and Document No. 2 and No. 4, the Court finds that the presumption of public access to Court documents is outweighed by the interest in protecting the identity of the rape victim in this case and by the federal-state comity interest in deferring to Civil Rights Law § 50-b. Because the name of the victim and other information tending to identify the victim appears ubiquitously throughout the documents in question, redaction would be burdensome and likely infeasible. The Clerk of the Court shall: (1) file under seal the "State Court Record" and "Transcripts" and (2) seal the documents filed by petitioner as Document No. 2 and No. 4. (Signed by Magistrate Judge Katharine H. Parker on 2/10/2017) (cla) Modified on 4/18/2019

		(anc). (Entered: 02/10/2017)
02/10/2017		Transmission to Sealed Records Clerk. Transmitted re: <u>32</u> Order on Motion to Seal Document, to the Sealed Records Clerk for the sealing or unsealing of document or case. (cla) (Entered: 02/10/2017)
02/10/2017	<u>34</u>	MOTION re: deny a third extension of time to the respondent. Document filed by Hugues-Denver Akassy.(sac) (Entered: 02/13/2017)
02/13/2017	<u>33</u>	SEALED DOCUMENT placed in vault.(mps) (Entered: 02/13/2017)
02/15/2017	<u>35</u>	MEMO ENDORSEMENT denying as moot <u>34</u> Motion re: deny a third extension of time to the respondent. ENDORSEMENT: APPLICATION DENIED. Having previously granted Respondent's request to extend the deadline to file its response brief (doc. no. 31), Petitioner's request is denied as moot. Respondent's response is due February 24, 2017 and Petitioner's reply brief is due April 10, 2017. (Signed by Magistrate Judge Katharine H. Parker on 2/15/2017) (mro) (Entered: 02/15/2017)
02/15/2017		Set/Reset Deadlines: Responses due by 2/24/2017 (mro) (Entered: 02/15/2017)
02/22/2017		Request for Copy of the updated docket Sheet Received: Re <u>36</u> Letter. Request for Docket Report, Court Orders from Hugues-Denver Akassy received on 2/23/17. Transmission to Records Management for processing Orders(Doc. #16, #18, #19, #23, #25, #27, #31 & #32; and Transmission to Pro Se Assistants for processing Docket sheet. (sc) (Entered: 02/23/2017)
02/23/2017	<u>36</u>	LETTER from Hugues-Denver Akassy, dated 2/15/17 re: REQUESTING THIS CASE COURT DOCKET & PRINT COPIES OF COURT ORDERS. Document filed by Hugues-Denver Akassy.(sc) (Entered: 02/23/2017)
02/23/2017	<u>37</u>	(Affirmation)PETITIONER'S RESPONSE TO THE RESPONDENT'S DECLARATION IN SUPPORT OF MOTION FOR SEALING ORDER; re: 11 Declaration. Document filed by Hugues-Denver Akassy. (sc) (Main Document 37 replaced on 2/28/2017) (cf). (Entered: 02/23/2017)
02/23/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 2/23/2017. (sbr) (Entered: 02/23/2017)
02/24/2017	<u>38</u>	MEMORANDUM OF LAW in Opposition to <i>Habeas Petition</i> . Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 02/24/2017)
02/24/2017	<u>39</u>	RESPONSE to <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 02/24/2017)
02/24/2017	<u>40</u>	AFFIDAVIT OF SERVICE of Answer, Memorandum of Law, Appendix of State Court Records, Cases with Electronic Citations served on Hugues-Denver Akassy on February 24, 2017. Service was made by Mail. Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 02/24/2017)
02/24/2017	<u>41</u>	MEMO ENDORSEMENT on re: <u>37</u> Affirmation filed by Hugues-Denver Akassy. ENDORSEMENT: APPLICATION DENIED. Having previously granted Respondent's request to seal certain documents (doc. no. 32), Petitioner's request is denied as moot. (Signed by Magistrate Judge Katharine H. Parker on 2/24/2017) (jwh) (Entered: 02/24/2017)
02/27/2017	<u>42</u>	LETTER MOTION to Seal Document <i>Number 37</i> addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated February 27, 2017. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 02/27/2017)
02/28/2017	<u>43</u>	ORDER granting <u>42</u> Motion to Seal Document. APPLICATION GRANTED. The clerk is directed to substitute document no. 37 with the document attached to this letter beginning on page 4 and ending on page 14. Further, for all future submissions to the Court, Petitioner is ordered to provide the initials of T.A., the individual identified in paragraph 5 of Petitioner's February 15, 2017 letter (doc. no. 37), rather than the individual's full name. (Signed by Magistrate Judge Katharine H. Parker on 2/28/2017) (cf) (Entered: 02/28/2017)
03/02/2017	<u>44</u>	SEALED DOCUMENT placed in vault.(rz) (Entered: 03/02/2017)

03/06/2017	<u>45</u>	MOTION FOR RECONSIDERATION ON THE RESPONDENT'S MOTION TO SEAL PETITIONER'S WRIT OF HABEAS CORPUS PETITION DOCUMENTS NOS. 2 & 4; re: <u>32</u> Order on Motion to Seal Document. Document filed by Hugues-Denver Akassy.(sc) (Main Document 45 replaced on 3/15/2017) (jwh). (Additional attachment(s) added on 3/15/2017: # <u>1</u> Part 2, # <u>2</u> Part 3, # <u>3</u> Part 4, # <u>4</u> Part 5, # <u>5</u> Part 6, # <u>6</u> Part 7) (jwh). (Entered: 03/07/2017)
03/08/2017	<u>46</u>	LETTER MOTION to Seal Document <u>45</u> MOTION for Reconsideration re; <u>32</u> Order on Motion to Seal Document,,, addressed to Magistrate Judge Katharine H. Parker from Margaret Cieprisz dated March 8, 2017. Document filed by Michael Kirkpatrick. (Attachments: # <u>1</u> Redacted Doc. No. 45, # <u>2</u> Redacted Doc. No. 45, # <u>3</u> Redacted Doc. No. 45, # <u>4</u> Redacted Doc. No. 45, # <u>5</u> Redacted Doc. No. 45, # <u>6</u> Redacted Doc. No. 45, # <u>7</u> Redacted Doc. No. 45)(Cieprisz, Margaret) (Entered: 03/08/2017)
03/13/2017	<u>47</u>	MOTION FOR RECONSIDERATION ON THE RESPONDENT'S MOTION TO SEAL PETITIONER'S WRIT OF HABEAS CORPUS PETITION, DOCUMENTS NOS. 2 & 4 re; <u>43</u> Order on Motion to Seal Document. Document filed by Hugues-Denver Akassy.(sc) (Main Document 47 replaced on 3/15/2017) (jwh). (Additional attachment(s) added on 3/15/2017: # <u>1</u> Part 2, # <u>2</u> Part 3, # <u>3</u> Part 4, # <u>4</u> Part 5, # <u>5</u> Part 6, # <u>6</u> Part 7) (jwh). (Entered: 03/13/2017)
03/15/2017	<u>48</u>	ORDER denying <u>45</u> Motion for Reconsideration ; granting <u>46</u> Letter Motion to Seal Document ; denying <u>47</u> Motion for Reconsideration: Presently before the Court are Petitioner's motions for reconsideration of the Court's order sealing document numbers 2 and 4, (doc. nos. 45, 47), and Respondent's motion to seal the current document 45 and replace it with a redacted version (doc. no. 46). For the reasons set forth in Respondent's motion to seal (doc. no. 46), Petitioners' motions are DENIED and Respondent's motion is GRANTED. Petitioner is reminded that for all future submissions to the Court, Petitioner is ordered to provide the initials of T.A., the individual identified in paragraph 5 of Petitioner's February 15, 2017 letter (doc. no. 37), rather than the individual's full name. The Clerk is directed to replace document numbers 45 and 47 with the attachments to document number 46. The clerk is also directed to terminate the motions pending at document numbers 45, 46, and 47. (Signed by Magistrate Judge Katharine H. Parker on 3/15/2017) (jwh) (Entered: 03/15/2017)
03/21/2017	<u>49</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy, dated 3/9/17 re: SUBSTITUTING REDACTED PETITIONER'S AFFIRMATION DOCUMENT NO. 4 IN THE MATTER OF AKASSY V. KIRKPATRICK, NO. 16-CV-7201. Document filed by Hugues-Denver Akassy.(sc) (Entered: 03/22/2017)
03/23/2017	<u>50</u>	MEMO ENDORSEMENT on re: <u>49</u> Letter, filed by Hugues-Denver Akassy. ENDORSEMENT: Application granted. The Clerk of the Court is directed to substitute Petitioner's redacted Affirmation for the the one originally filed at Docket No. 4. (Signed by Magistrate Judge Katharine H. Parker on 3/23/2017) (jwh) (Entered: 03/23/2017)
03/24/2017		Mailed a copy of <u>50</u> Memo Endorsement, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 03/24/2017)
03/30/2017	<u>51</u>	REPLY MEMORANDUM OF LAW in Further Support re: <u>2</u> Petition for Writ of Habeas Corpus. Document filed by Hugues-Denver Akassy. (Attachments: # <u>1</u> Main Document, # <u>2</u> Main Document)(sac) (Entered: 03/31/2017)
04/06/2017	<u>52</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy dated 4/3/17 re: REQUESTING CORRECTION OF YEAR OF EVENT IN REPLY MEMORNDUM OF LAW IN THE MATTER OF AKASSY v. KIRKPATRICK, NO. 16-CV-7201. Document filed by Hugues-Denver Akassy.(sc) (Entered: 04/06/2017)
04/06/2017	<u>53</u>	LETTER from Hugues-Denver Akassy, dated 3/31/17 re: REQUESTING THE COURT DOCKET OF POST PETITIONER'S REPLY. Document filed by Hugues-Denver Akassy.(sc) (Entered: 04/07/2017)

04/06/2017		Request for Copy of the updated Docket Sheet Received: Re <u>53</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 4/6/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 04/07/2017)
04/10/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 4/10/2017. (sbr) (Entered: 04/10/2017)
06/29/2017	<u>54</u>	LETTER from Hugues-Denver Akassy dated 6/26/17 re: Petitioner requests that the Court provide him/her with an updated docket sheet. Document filed by Hugues-Denver Akassy.(sc) (Entered: 06/29/2017)
06/29/2017		Request for Copy of the updated Docket Sheet Received: Re <u>54</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 6/29/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 06/29/2017)
06/29/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 6/29/2017. (sbr) (Entered: 06/29/2017)
07/12/2017	<u>55</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy, dated 7/7/17 re: LETTER AS MOTION SEEKING PERMISSION TO AMEND COURT EVIDENCE. Document filed by Hugues-Denver Akassy.(sc) (Entered: 07/12/2017)
07/13/2017		***DELETED DOCUMENT. Deleted document number 56 Memo Endorsement. The document was incorrectly filed in this case. (yv) (Entered: 07/13/2017)
07/13/2017	<u>56</u>	MEMO ENDORSEMENT on re: <u>55</u> Letter request to amend a court order, filed by Hugues-Denver Akassy. ENDORSEMENT: Respondent shall file a response to Petitioner's Letter Motion by July 27, 2017, after which the Court will make a decision on Petitioner's motion. No reply shall be permitted. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 7/13/17) (yv) (Main Document 56 replaced on 7/13/2017) (yv). (Entered: 07/13/2017)
07/21/2017	<u>57</u>	RESPONSE to Motion re: <u>47</u> MOTION for Reconsideration re: <u>43</u> Order on Motion to Seal Document,,. <i>Response to Doc. 56</i> . Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 07/21/2017)
07/26/2017	<u>58</u>	LETTER from Hugues-Denver Akassy, dated 7/24/17 re: Petitioner requests that the Court provide him/her with a copy of the updated docket sheet in this case. Document filed by Hugues-Denver Akassy.(sc) (Entered: 07/27/2017)
07/26/2017		Request for Copy of the updated Docket Sheet Received: Re <u>58</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 7/26/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 07/27/2017)
08/01/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 8/1/2017. (sbr) (Entered: 08/01/2017)
08/08/2017	<u>59</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from Hugues-Denver Akassy, dated 7/31/17 re: LETTER-AS-MOTION SEEKING PERMISSION TO AMEND COMPLETE RAP-SHEET AS COURT EVIDENCE IN RESPONSE TO RESPONDENT'S ANSWER IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 08/08/2017)
08/23/2017	<u>60</u>	LETTER from Hugues-Denver Akassy dated 8/21/17 re: REQUESTING DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 08/24/2017)
08/23/2017	<u>0</u>	Request for Copy of the updated Docket Sheet Received: Re <u>60</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 8/23/17. Transmission to Pro Se Assistants for processing. (sc) Modified on 8/24/2017 (sc). (Entered: 08/24/2017)
08/24/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 8/24/2017. (sbr) (Entered: 08/24/2017)
11/21/2017	<u>61</u>	LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy, dated 11/15/17 re: REQUESTING SPEEDY DECISION ON HABEAS CORPUS FOR HEALTH CONCERNS & IMMIGRATION REMOVAL PROCEEDINGS

		DECISION IN THE MATTER OF AKASSY v. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 11/21/2017)
12/20/2017	<u>62</u>	LETTER from Hugues-Denver Akassy dated 12/18/17 re: REQUESTING THE COURT DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/21/2017)
12/20/2017		Request for Copy of the updated Docket Sheet Received: Re <u>62</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 12/20/17. Transmission to Pro Se Assistants for processing. (sc) (Entered: 12/21/2017)
12/21/2017		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 12/21/2017. (sbr) (Entered: 12/21/2017)
01/05/2018	<u>63</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from H. Akassy dated 12/27/17 re: SEEKING COURT ORDERS ON HABEAS CORPUS & SPEEDY DECISION. Document filed by Hugues-Denver Akassy.(sc) (Entered: 01/05/2018)
02/15/2018	<u>64</u>	LETTER from Hugues-Denver Akassy, dated 2/12/18 re: REQUESTING DOCKET SHEET AND AWAITING THE MAGISTRATE JUDGE'S DECISION IN THE MATTER OF AKASSY v. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 02/16/2018)
02/15/2018		Request for Copy of the updated Docket Sheet Received: Re <u>64</u> Letter. Request for Docket Report, from H. Akassy received on 2/15/18. Transmission to Pro Se Assistants for processing. (sc) (Entered: 02/16/2018)
02/16/2018		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 02/16/2018. (sbr) (Entered: 02/16/2018)
04/19/2018	<u>65</u>	NOTICE OF CHANGE OF ADDRESS by Margaret Ann Cieprisz on behalf of Michael Kirkpatrick. New Address: NYS Office of the Attorney General, 28 Liberty Street, 14th floor, New York, NY, US 10005, 212-416-8620. (Cieprisz, Margaret) (Entered: 04/19/2018)
04/20/2018	<u>66</u>	LETTER from Hugues-Denver Akassy, dated 4/12/18 re: REQUESTING TEMPORARY HOLD ON ALL LEGAL MAILS FROM THE COURT IN THE MATTER OF AKASSY V. KIRKPATRICK(starting 4/30/18). Document filed by Hugues-Denver Akassy.(sc) (Entered: 04/20/2018)
05/22/2018	<u>67</u>	LETTER from Hugues-Denver Akassy, dated 5/17/18 re: Petitioner informs the Court that he/she has returned from the immigration trip, and resumes residence at Clinton Correctional Facility, P.O. Box 2001, Dannemora, New York 12929. Document filed by Hugues-Denver Akassy.(sc) (Entered: 05/23/2018)
06/28/2018	<u>68</u>	LETTER addressed to Judge Loretta A. Preska from Hugues-Denver Akassy, dated 6/5/18 re: SEEKING SPEEDY DECISION ON WRIT OF HABEAS CORPUS IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 06/28/2018)
07/02/2018	<u>69</u>	MEMO ENDORSEMENT on re: <u>68</u> Letter filed by Hugues-Denver Akassy. ENDORSEMENT: The Court is considering the Petition. (Signed by Judge Loretta A. Preska on 7/2/2018) (jwh) (Entered: 07/02/2018)
07/13/2018	<u>70</u>	LETTER from Hugues-Denver Akassy, dated 7/11/18 re: REQUESTING COURT DOCKET SHEET IN THE MATTER OF HUGUES-DENVER AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 07/16/2018)
07/13/2018		Request for Copy of the updated Docket Sheet Received: Re <u>70</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 7/13/18. Transmission to Pro Se Assistants for processing. (sc) (Entered: 07/16/2018)
07/17/2018		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy mailed on 07/17/2018. (sbr) (Entered: 07/17/2018)
07/18/2018	<u>71</u>	MEMO ENDORSEMENT on re: <u>70</u> Letter filed by Hugues-Denver Akassy. ENDORSEMENT: The Clerk of the Court shall provide Mr. Akassy with a copy of the docket sheet. (Signed by Judge Loretta A. Preska on 7/18/2018) (mro) (Entered: 07/18/2018)

		07/18/2018)
07/18/2018		Transmission to Docket Assistant Clerk. Transmitted re: <u>71</u> Memo Endorsement, to the Docket Assistant Clerk for case processing. (mro) (Entered: 07/18/2018)
07/18/2018		Mailed a copy of <u>71</u> Memo Endorsement and copy of the docket sheet to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (vba) (Entered: 07/18/2018)
11/30/2018	<u>72</u>	LETTER addressed to Judge Loretta A. Preska from Hugues D. Akassy, dated 11/15/18 re: REQUESTING AN EMERGENCY HEARING TO BE RELEASED FROM FALSE IMPRISONMENT BECAUSE THE STATE CRIMINAL COURT RECORD TRULY REVEALS THAT BOTH GRAND JURY AND TRIAL JUDGE CAROL BERKMAN DISMISSED THE PEOPLE'S TRUMPED-UP CASE OF RAPE IN THE FIRST DEGREE AND THE FORGED TRUE BILL ON A 24-COUNT ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/03/2018)
12/07/2018	<u>73</u>	REPORT AND RECOMMENDATIONS re: <u>2</u> Petition for Writ of Habeas Corpus filed by Hugues-Denver Akassy. This Court respectfully recommends that Petitioner's claims be denied and his Petition dismissed in its entirety. The Clerk of Court is respectfully directed to mail a copy of this Report and Recommendation to the pro se Petitioner. Respectfully submitted. (Objections to R&R due by 12/21/2018) (Signed by Magistrate Judge Katharine H. Parker on 12/7/18) (yv) Transmission to Docket Assistant Clerk for processing. (Entered: 12/07/2018)
12/10/2018		Mailed a copy of <u>73</u> Report and Recommendations, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (vba) (Entered: 12/10/2018)
12/21/2018	<u>74</u>	OBJECTION TO MAGISTRATE JUDGE'S REPORT & RECOMMENDATION; re: <u>73</u> Report and Recommendations Document filed by Hugues-Denver Akassy. (sc) (Entered: 12/24/2018)
12/27/2018	<u>75</u>	MOTION FOR SUBPOENA TO COMPEL THE NEW YORK DISTRICT ATTORNEY'S OFFICE TO PRODUCE PETITIONER'S OFFICIAL PRESS CREDENTIALS AND NEWS ASSIGNMENT VIDEO TAPES. Document filed by Hugues-Denver Akassy.(sc) (Entered: 12/28/2018)
01/03/2019	<u>76</u>	LETTER from Hugues D. Akassy, dated 12/26/18 re: REQUESTING COURT DOCKET-SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 01/04/2019)
01/03/2019	<u>0</u>	Request for Copy of the updated Docket Sheet Received: Re <u>76</u> Letter. Request for Docket Report, from Hugues D. Akassy received on 1/3/19. Transmission to Pro Se Assistants for processing. (sc) Modified on 1/4/2019 (sc). (Entered: 01/04/2019)
01/04/2019	<u>77</u>	RESPONSE in Opposition to Motion re: <u>75</u> MOTION FOR SUBPOENA TO COMPEL THE NEW YORK DISTRICT ATTORNEY'S OFFICE TO PRODUCE PETITIONER'S OFFICIAL PRESS CREDENTIALS AND NEWS ASSIGNMENT VIDEO TAPES. . Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 01/04/2019)
01/04/2019		Form Request Mailed: Request for Docket Sheet from Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929 mailed on 1/4/2019. (bwa) (Entered: 01/04/2019)
01/07/2019	<u>78</u>	LETTER addressed to Judge Loretta A. Preska from Margaret A. Cieprisz dated January 7, 2019 re: Response to Objections to Report and Recommendation. Document filed by Michael Kirkpatrick.(Cieprisz, Margaret) (Entered: 01/07/2019)
01/08/2019	<u>79</u>	OPINION AND ORDER re: <u>75</u> MOTION FOR SUBPOENA TO COMPEL THE NEW YORK DISTRICT ATTORNEY'S OFFICE TO PRODUCE PETITIONER'S OFFICIAL PRESS CREDENTIALS AND NEWS ASSIGNMENT VIDEO TAPES. filed by Hugues-Denver Akassy. Petitioner's motion for discovery (Doc. No. 75) is DENIED. The Clerk of Court is respectfully directed to mail a copy of this Opinion and Order to the pro se Petitioner. SO ORDERED. (Signed by Magistrate Judge Katharine H. Parker on 1/8/19) (yv) Transmission to Docket Assistant Clerk for

		processing. (Entered: 01/08/2019)
01/09/2019		Mailed a copy of <u>79</u> Memorandum & Opinion, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (vba) (Entered: 01/09/2019)
01/18/2019	<u>80</u>	MOTION(Reply Affirmation) TO DISMISS RESPONDENT'S OPPOSITION TO PETITIONER'S WRIT OF HABEAS CORPUS FOR FAILING TO ANSWER TO COMPELLING FACTS & EXCULPATORY GRAND JURY EVIDENCE MATERIALS SUBMITTED; re: <u>38</u> Memorandum of Law in Opposition. Document filed by Hugues-Denver Akassy. (sc) (Entered: 01/21/2019)
01/28/2019	<u>81</u>	PETITIONER'S OBJECTION TO MAGISTRATE JUDGE KATHERINE H. PARKER'S PUBLISHED DECISION ON SUBPOENA TO COMPEL NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE TO PRODUCE PETITIONER'S OFFICIAL PRESS CREDENTIALS & NEWS ASSIGNMENT VIDEOTAPES; re: <u>79</u> Memorandum & Opinion. Document filed by Hugues-Denver Akassy. (sc) (Entered: 01/30/2019)
02/12/2019	<u>82</u>	LETTER addressed to Judge Loretta A. Preska from H. Akassy, dated 1/29/19 re: REQUESTING THE REMOVAL OF MAGISTRATE JUDGE KATHERINE H. PARKER FROM MY CASE DUE TO ETHICS VIOLATION, RACIAL BIAS, ABUSE OF DISCRETION AND OBSTRUCTION OF JUSTICE IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 02/12/2019)
02/14/2019	<u>83</u>	ORDER: Before the Court is Petitioner's request to recuse Magistrate Judge Parker. A motion to recuse is to be addressed to the judge the party seeks to recuse. The remedy for a denial of that motion is appeal. Accordingly, to the extent that Petitioner seeks to recuse Judge Parker, he shall direct his motion to recuse to Judge Parker. (Signed by Judge Loretta A. Preska on 2/14/2019) (jwh) (Entered: 02/14/2019)
02/14/2019		Transmission to Docket Assistant Clerk. Transmitted re: <u>83</u> Order to the Docket Assistant Clerk for case processing. (jwh) (Entered: 02/15/2019)
02/15/2019		Mailed a copy of <u>83</u> Order, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (aea) (Entered: 02/15/2019)
02/20/2019	<u>84</u>	LETTER from Hugues-Denver Akassy dated 2/15/2019 re: I respectfully write to request the Court Docket Sheet in the Matter of Akassy v. Kirkpatrick, No. 16-cv-7201(LAP)(KHP). Document filed by Hugues-Denver Akassy.(vn) (Entered: 02/21/2019)
02/20/2019		Request for Docket Sheet Received: Re <u>84</u> Letter. Request for Docket Report, from Hugues-Denver Akassy received on 2/20/2019. Transmission to Pro Se Assistants for processing. (vn) (Entered: 02/21/2019)
02/22/2019		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Hugues-Denver Akassy 11-A-5580 at Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929 on 2/22/2019. (bwa) (Entered: 02/22/2019)
03/01/2019	<u>85</u>	ORDER. In a letter addressed to Hon. Loretta A. Preska, Petitioner requested that the undersigned recuse herself from this action. (Dkt. No. 82.) The Court is in receipt of Petitioner's letter submission and will issue a decision regarding the pending application. Petitioner should not submit an additional application. The Clerk of Court is respectfully directed to mail a copy of this Order to Petitioner. SO ORDERED. (Signed by Magistrate Judge Katharine H. Parker on 3/1/19) (yv) Transmission to Docket Assistant Clerk for processing. (Entered: 03/01/2019)
03/04/2019		Mailed a copy of <u>85</u> Order, to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (vba) (Entered: 03/04/2019)
03/07/2019	<u>86</u>	LETTER addressed to Magistrate Judge Katharine H. Parker from H. Akassy, dated 2/25/19 re: REQUESTING A RECUSAL FROM MY CASE DUE TO ETHICS VIOLATION, RACIAL BIAS, ABUSE OF DISCRETION & OBSTRUCTION OF JUSTICE, IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. Document filed

		by Hugues-Denver Akassy.(sc) (Entered: 03/07/2019)
04/19/2019	<u>87</u>	DECISION ON RECUSAL MOTION. The motion for recusal is DENIED. (Signed by Magistrate Judge Katharine H. Parker on 4/19/19) (yv) (Entered: 04/19/2019)
04/25/2019	<u>88</u>	LETTER from Hugues D. Akassy, dated 4/15/19 re: REQUESTING THE COURT DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 04/29/2019)
04/30/2019		Mailed a copy of updated docket sheet as it appears on Pacer and requested in ECF # 88 Letter to Hugues-Denver Akassy 11-A-5580 Clinton Correctional Facility P.O. Box 2001 Dannemora, NY 12929. (ca) (Entered: 04/30/2019)
04/30/2019	<u>89</u>	LETTER addressed to Judge Loretta A. Preska from H. Akassy, dated 4/25/19 re: MAGISTRATE JUDGE KATHERINE H. PARKER IMPERSONATED UNITED STATES COURT OF APPEALS JUDGE BARRINGTON PARKER IN ORDER TO OVERRULE THE HON. DISTRICT JUDGE LORETTA A. PRESKA'S ORDER TO UNSEAL PETITIONER'S TRIAL CASE COURT DOCUMENTS IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 05/02/2019)
05/17/2019	<u>90</u>	LETTER addressed to Judge Loretta A. Preska from Hugues D. Akassy, dated 5/6/19 re: ON APPEAL FROM MAGISTRATE JUDGE KATHERINE H. PARKER'S REFUSAL TO RECUSE HERSELF FROM PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 05/21/2019)
05/31/2019	<u>91</u>	LETTER from H. Akassy, dated 5/23/19 re: REQUESTING THE COURT DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 06/03/2019)
05/31/2019		Request for Copy of the updated Docket Sheet Received: Re <u>91</u> Letter. Request for Docket Report, from H. Akassy received on 5/31/19. Transmission to Pro Se Assistants for processing. (sc) (Entered: 06/03/2019)
06/03/2019		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Hugues-Denver Akassy, 11-A-5580, at Clinton Correctional Facility, P.O. Box 2001, Dannemora, NY 12929 on 6/3/2019. (bwa) (Entered: 06/03/2019)
06/14/2019	<u>92</u>	PRO SE MEMORANDUM(Letter) dated 6/9/19 re: CHANGE OF ADDRESS for Hugues-Denver Akassy. New Address: #11 A5580, Wende C.F., Wende Rd., P.O. Box 1187, Alden, NY, 14004-1187. (sc) (Entered: 06/17/2019)
08/05/2019	<u>93</u>	LETTER from H. Akassy, dated 7/29/19 re: REQUESTING THE COURT DOCKET SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK. Document filed by Hugues-Denver Akassy.(sc) (Entered: 08/05/2019)
08/05/2019		Request for Copy of the updated Docket Sheet Received: Re <u>93</u> Letter. Request for Docket Report, from H. Akassy received on 8/5/19. Transmission to Pro Se Assistants for processing. (sc) (Entered: 08/05/2019)
08/06/2019		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Hugues-Denver Akassy 11-A-5580 at Wende C.F. Wende Rd. P.O. Box 1187 Alden, NY 14004 on 8/6/2019. (bwa) (Entered: 08/06/2019)
02/07/2020	<u>94</u>	LETTER addressed to Judge Loretta A. Preska from H. Akassy dated 1/28/20 re: REQUESTING A SPEEDY RESOLUTION OF MY WRIT OF HABEAS CORPUS DUE MISFEASANCE & IMMIGRATION CONSEQUENCES, ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 02/11/2020)
02/26/2020	<u>95</u>	LETTER from H. Akassy, dated 2/15/20 re: REQUESTING THE COURT DOCKET-SHEET ETC. Document filed by Hugues-Denver Akassy.(sc) (Entered: 03/02/2020)
02/26/2020		Request for Copy of the updated Docket Sheet Received: Re <u>95</u> Letter. Request for Docket Report, from H. Akassy received on 2/15/20. Transmission to Pro Se Assistants for processing. (sc) (Entered: 03/02/2020)

03/02/2020		Request for Docket Sheet Processed: Mailed copy of Docket Sheet to Hugues-Denver Akassy 11-A-5580 at Wende C.F., Wende Rd., P.O. Box 1187, Alden, NY 14004-1187 on 3/2/2020. (bwa) (Entered: 03/02/2020)
07/14/2020	<u>96</u>	LETTER addressed to Judge Loretta A. Preska from H. Akassy, dated 7/6/20 re: LETTER-AS-MOTION REQUESTING EMERGENCY HEARING AND DECISION ON WRIT OF HABEAS CORPUS DUE TO THE COVID-19. Document filed by Hugues-Denver Akassy.(sc) (Entered: 07/14/2020)
07/16/2020	<u>97</u>	ORDER: For the foregoing reasons, Mr. Akassy's habeas corpus petition is dismissed. Because Mr. Akassy has not made a substantial showing of a denial of a constitutional right, no certificate of appealability will be granted. The Clerk of the Court shall mark this action closed and all pending motions denied as moot and mail a copy of this order to Mr. Akassy. SO ORDERED. (Signed by Judge Loretta A. Preska on 7/16/2020) (va) (Entered: 07/16/2020)
08/04/2020	<u>98</u>	LETTER from Hugues-Denver Akassy dated 7/28/2020 re: I write to request the Court Docket-Sheet in the matter of Akassy v. Kirkpatrick, 16-cv-7201 (LAP). Document filed by Hugues-Denver Akassy. (vn) (Entered: 08/04/2020)
08/04/2020		Request for Docket Sheet Processed: Mailed copy of Docket Sheet to Hugues-Denver Akassy, 11-A-5580, Wende C.F., Wende Rd., P.O. Box 1187, Alden, NY 14004-1187 on 8/4/2020. (vn) (Entered: 08/04/2020)
08/18/2020	<u>99</u>	LETTER addressed to Judge Loretta A. Preska from H. Akassy, dated 8/13/20 re: "LETTER-AS-MOTION/ HABEAS CORPUS DECISION WAS NOT SERVED IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. " - I write to request your Order denying my Petition for Writ of Habeas Corpus under 28:2254, because this day I was not served by the Clerk of Court as ordered. I request that this Court grant me an extension of time of 90 days in order to submit my Motion for Reconsideration.. Document filed by Hugues-Denver Akassy.(sc) (Entered: 08/19/2020)
08/20/2020	<u>100</u>	ORDER. The Clerk of the Court is directed to mail a copy of this order and the Courts July 16, 2020 order (dkt. no. 97) to Mr. Akassy. Mr. Akassy's time to serve a notice of appeal is extended for ninety (90) days. SO ORDERED. (Signed by Judge Loretta A. Preska on 8/20/20) (yv) Transmission to Docket Assistant Clerk for processing. (Entered: 08/20/2020)
08/20/2020		Mailed a copy of <u>100</u> Order to Hugues-Denver Akassy, DIN # 11-A-5580 at Wende C.F., Wende Rd., P.O. Box 1187, Alden, NY 14004-1187. (kh) (Entered: 08/20/2020)
09/08/2020	<u>101</u>	PETITIONER'S EMERGENCY MOTION TO REQUEST THE COURT'S DECISION ON WRIT OF HABEAS CORPUS, re: for Judgment. Document filed by Hugues-Denver Akassy.(sc) (Entered: 09/08/2020)
09/09/2020	<u>102</u>	MEMO ENDORSED ORDER with respect to <u>101</u> Motion for Judgment. ENDORSEMENT: The Clerk of the Court shall mail a copy of the Court's July 16 order (dkt. no. 97) to Mr. Akassy along with a copy of this order. SO ORDERED. (Signed by Judge Loretta A. Preska on 9/9/2020) (va) Transmission to Docket Assistant Clerk for processing. (Entered: 09/09/2020)
09/10/2020		Mailed a copy of <u>102</u> Order on Motion for Judgment, <u>97</u> Order, to Hugues-Denver Akassy, DIN # 11-A-5580, Wende C.F., Wende Rd., P.O. Box 1187, Alden, NY 14004-1187. (dsh) (Entered: 09/10/2020)
09/21/2020	<u>103</u>	NOTICE OF APPEAL from <u>97</u> Order. Document filed by Hugues-Denver Akassy. Form D-P is due within 14 days to the Court of Appeals, Second Circuit. (tp) (Entered: 09/24/2020)
09/24/2020		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>103</u> Notice of Appeal. (tp) (Entered: 09/24/2020)
09/24/2020		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>103</u> Notice of Appeal filed by Hugues-Denver Akassy were transmitted to the U.S. Court of Appeals. (tp) (Entered: 09/24/2020)
10/01/2020	<u>104</u>	LETTER from H. Akassy, dated 10/5/20 re: REQUESTING THE COURT DOCKET-SHEET IN THE MATTER OF AKASSY V. KIRKPATRICK ETC. Document filed by Hugues-Denver Akassy (sc) (Entered: 10/02/2020)

10/01/2020		Request for Copy of the updated Docket Sheet Received: Re <u>104</u> Letter. Request for Docket Report, from H. Akassy received on 10/1/20. Transmission to Pro Se Assistants for processing. (sc) (Entered: 10/02/2020)
------------	--	--

APPENDIX E

Supreme Court
of the
State of New York

Part 31-New York County

-----X
The People of the State of New York

INDICTMENT: 03884-2010

-against-

MOTION FOR: CPL § 440.10

Hugues Akassy

CALENDAR DATE: September 3, 2013

Defendant
-----X

Ordered that upon the papers submitted, this motion is hereby


GRANTED _____

DENIED  _____

DATE **OCT 21 2014**

I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Date PT. 31 OCT - 3 2014


Hon. _____
County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

HON. J. KONVIGER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CRIMINAL TERM, PART 31

-----X
THE PEOPLE OF THE STATE OF NEW YORK :

-against- :

Ind. No. 3772/10

HUGUES AKASSY, :
Defendant. :

-----X
JILL KONVISER, JUDGE:

Brief History of the Case

On July 27, 2010, the defendant lured a 43 year old Russian tourist, whom he had just met, to Riverside Park in Manhattan for a sunset picnic. Once there, he took her to a secluded area of the park, threw her to the ground on top of a metal subway grate, and raped her.

Over the course of the rape investigation, the New York Police Department and the New York County District Attorney's office learned that the defendant had victimized a number of other women. The defendant was ultimately indicted for multiple crimes against several women, and in October of 2011, a jury trial commenced in connection with those offenses. On November 7, 2011, the defendant was convicted of Rape in the First Degree, pursuant to Penal Law Section 130.35(1), for the July 27, 2010 Riverside Park rape. Additionally, the defendant was convicted of three counts of Aggravated Harassment in the Second Degree, pursuant to Penal Law Section 240.30(1)(a), and two counts of Stalking in the Third Degree, pursuant to Penal Law Section 120.50(3), for incidents involving three other victims.¹ On November 17, 2011, the defendant was sentenced to a prison

¹ The defendant was acquitted of additional counts related to two of those victims – two counts of Sexual Abuse in the First Degree and one count of Stalking in the Third Degree. Further, the defendant was acquitted of one count involving a fifth victim – Criminal Sexual Act in the First Degree. Additionally, while the indictment charged the defendant with one additional count of Sexual Abuse in the First Degree, two additional counts of Stalking in the Third Degree, eight counts of Stalking in the Fourth Degree, one count of Petit Larceny, one count of Criminal Possession of Stolen Property in the Fifth Degree, and one count of Criminal Trespass in the Third Degree, the Court, pursuant to C.P.L. § 300.40(6)(b), did not submit those charges to the jury in order to avoid placing an unduly

term of twenty years; to be followed by five years of post-release supervision.²

Procedural History of the Instant Motion

On July 29, 2013, the defendant filed a *pro se* motion to vacate the judgment of conviction pursuant to Criminal Procedure Law Section 440.10, based on the alleged ineffective assistance of two attorneys assigned to represent him at different phases of the case. Additionally, the defendant requested that the Court order two court reporters to “release” what he asserted were “altered” trial transcripts, and to “seize” and “place a gag order” on photographs that members of law enforcement allegedly took of his “private parts.” On August 20, 2013, the defendant filed a supplemental document asserting that the Assistant District Attorney who prosecuted the case “railroaded” him, and that this Court, as well as its predecessor, engaged in “cruel and evil transgressions to win a wrongful conviction at all costs.” The defendant subsequently carbon copied the Court on a document entitled, “Wrongful Conviction; Defamation; Forgery and Tampering Evidence by the New York County’s County District Attorney Office and The Court-Appointed Counsels to Cover-Up Conspiracy and Misconduct to Wrongly Convict French TV Journalist Hugues-Denver Akassy As Appeal Record Shows.” By document dated December 31, 2013, the defendant argued that as the People had not yet responded to his motion, their response should be deemed “forfeit.” Additionally, the defendant demanded that the Court recuse itself as a result of its lack of objectivity and impartiality, its responsibility for a “gross injustice,” and its leadership over “a rampant culture of improper demeanor, cronyism [sic], backroom deal [sic], abuse of discretion and power, conflict

heavy burden on it.

² The defendant was also sentenced to one year jail on each of the misdemeanor offenses, to be served concurrently.

of interest, prejudism [sic], racism, bias, favoritism, corruption and serial misconduct.” Furthermore, the defendant directed the Court to release the minutes of his testimony before the Grand Jury, and the “trial transcript’s voice recording.” On January 16, 2014, after having been granted several adjournments in light of the defendant’s supplemental filings, the People filed their Response. On January 31, 2014, the defendant filed a motion raising several new C.P.L. § 440.10 arguments not included in his original motion. Specifically, the defendant alleged that the People violated his Constitutional speedy trial rights and withheld Rosario and Brady material at trial. On April 21, 2014, the People filed a Supplemental Affirmation in Response to the defendant’s motion. On May 6, 2014, the Court received a Reply from the defendant, arguing that the People “deliberately and maliciously” did not timely file their Response to his Reply, and that they were intentionally delaying “the process.” In order to address several of the defendant’s contentions, the Court requested that the People provide the Grand Jury transcript and the search warrants issued in connection with this case to the Court. Submission of those items was completed on August 6, 2014. In light of the defendant’s *pro se* status, the Court is deeming all of the documents filed by the defendant as one motion to vacate the judgment of conviction pursuant to C.P.L. § 440.10. For the reasons that follow, the motion is denied in its entirety without a hearing.

The C.P.L. § 440.10 Motion to Vacate the Judgment of Conviction

The defendant raises three claims that are cognizable pursuant to C.P.L. § 440.10. First, he alleges that the representation provided to him by two court-appointed attorneys was ineffective. Additionally, he contends that the judgment of conviction must be vacated as his Constitutional speedy trial rights were violated. Finally, he asserts that the People’s failure to provide him with a transcript of his Grand Jury testimony violated the tenets of both People v. Rosario, 9 N.Y.2d 286

(1961) and Brady v. Maryland, 373 U.S. 83 (1963). The defendant's claims are without merit. Accordingly, and for the reasons that follow, the defendant's motion to vacate the judgment of conviction is denied in its entirety without a hearing. See People v. Santiago, 72 A.D.3d 492 (1st Dept. 2010).

INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM

The defendant first moves this Court to vacate the judgment of conviction pursuant to C.P.L. § 440.10 based on what he alleges was the ineffective assistance of two court-appointed attorneys. The defendant's allegations are without merit.

To begin, the defendant fails to provide any "sworn allegations substantiating or tending to substantiate all the essential facts." CPL § 440.30(4)(b). Rather, the defendant relies on completely unsupported factual allegations. Indeed, the defendant provides no affidavits from either court-appointed attorney, or any other potential witnesses in support of his motion. See People v. Ozuna, 27 A.D.3d 339 (1st Dept. 2006); People v. Rosario, 309 A.D.2d 537 (1st Dept. 2003); People v. De Jesus, 39 A.D.3d 1196 (4th Dept. 2007). And, conclusory, unsupported allegations are insufficient to obtain a hearing on the motion. See CPL § 440.30(4)(d); People v. Vallee, 97 A.D.3d 972 (3d Dept. 2012); People v. Waymon, 65 A.D.3d 708 (2d Dept. 2009); People v. Broxton, 34 A.D.3d 491 (2d Dept. 2006); People v. Miller, 8 A.D.3d 176 (1st Dept. 2004). Moreover, the defendant has failed to show that the errors he complains of were not the "result of a reasoned, professional judgment." People v. Newton, 192 A.D.2d 447 (1st Dept. 1993); see People v. Oruche, 181 A.D.2d 448 (1st Dept. 1992).

In any event, the right to effective assistance of counsel is guaranteed by both the Federal and State Constitutions. See U.S. Const., Amend. VI; N.Y.S. Const., Art. I, § 6. To prevail on a

claim of ineffective assistance of counsel, however, a defendant must overcome the strong presumption that counsel rendered effective assistance, and a defendant “bears the well-settled, high burden of demonstrating that he was deprived of a fair trial by less than meaningful representation.” People v. Hobot, 84 N.Y.2d 1021, 1022 (1995). The concept of meaningful representation “cannot be fixed with yardstick precision, but varies according to the unique circumstances of each representation.” People v. Baldi, 54 N.Y.2d 137, 146 (1981); see People v. Rivera, 71 N.Y.2d 705 (1988). Thus, a court must analyze “the evidence, the law, and the circumstances of a particular case” in its “totality and as of the time of the representation.” People v. Henry, 95 N.Y.2d 563, 565 (2000). To determine whether meaningful representation was provided, a court must focus on the “fairness of the process as a whole” and refrain from “confusing true ineffectiveness with mere losing tactics and according undue significance to retrospective analysis.” People v. Benevento, 91 N.Y.2d 708, 712, 714 (1998). An analysis of the totality of the circumstances in the instant case, as discussed below, makes plain that the defendant was provided with meaningful representation.

Defendant’s First Court-Appointed Attorney

The defendant alleges that he was provided with ineffective assistance of counsel by the attorney initially appointed to represent him. That attorney represented the defendant from the Criminal Court arraignment through the Supreme Court arraignment, at which time counsel was relieved by a prior judge, at the defendant’s request. Specifically, the defendant contends that that counsel violated attorney-client privilege by providing information to the police that led to the issuance of two search warrants, and failed to provide him with adequate information with respect to the charges being presented to the Grand Jury. The defendant’s allegations are without merit.

First, the defendant argues that two search warrants issued in connection with this case – to

seize property located at an Equinox Sports Club and an NYC Mini Storage Facility – were based on information provided by his attorney in violation of the attorney-client privilege, thus, rendering the attorney’s assistance ineffective.³ As a preliminary matter, the defendant fails to specify the information that he claims was violative of the privilege. In any event, this Court ordered the People to provide the search warrants and has reviewed those warrants and the accompanying affidavits. Neither warrant contains any information provided by the defendant’s attorney – the warrants contain information provided by other sources. Quite simply, then, there is no evidence to suggest that the defendant’s attorney violated the attorney-client privilege in this regard. See People v. Martinez, 88 A.D.3d 513 (1st Dept. 2011).

The defendant further contends that counsel failed to inform him of the charges under consideration by the Grand Jury, thus, rendering counsel’s assistance ineffective. Specifically, the defendant alleges that he was informed by his attorney that only charges relating to the victim named in the felony complaint regarding the rape were to be presented to the Grand Jury. The defendant fails, however, to provide any evidence to support his claim. In any event, the People are under no statutory obligation to inform a defendant and his attorney that the scope of the Grand Jury proceeding has been extended beyond the offenses charged in the felony complaint. See People v. Hernandez, 223 A.D.2d 351 (1st Dept. 1996); People v. Feliciano, 207 A.D.2d 803 (2d Dept. 1994); People v. Choi, 210 A.D.2d 495 (2d Dept. 1994). This Court can only conclude, therefore, that the defendant received meaningful representation in connection with the Grand Jury proceedings.

³ Both warrants were signed by another Court.

Trial Counsel – Defendant’s Second Court-Appointed Attorney

The defendant also alleges that he was provided with ineffective assistance by his court-appointed trial counsel. In support of his contention, the defendant alleges a score of perceived errors that may be distilled into a few different themes. First, the defendant alleges that counsel “colluded” with the District Attorney’s office and the Court to conceal unlawful acts against him and to hide evidence, and was part of a conspiracy to alter and/or conceal the trial transcripts. Next, the defendant contends that counsel failed to intervene when he was arrested on “trumped-up charges,” and when the People committed prosecutorial misconduct by levying “false” charges against him and withholding evidence.⁴ The defendant also takes issue with counsel’s competence as an attorney, lack of preparation, and inadequate advocacy, arguing that counsel failed to investigate the charges fully, locate “key witnesses,” and hire an “independent pathologist.” Additionally, the defendant contends that counsel failed to make certain pre-trial motions, including to dismiss the indictment due to irregularities in the Grand Jury. The defendant also takes issue with counsel’s performance at trial, alleging that counsel behaved “pompously” during *voir dire* in an effort to “alienate” the jurors, and failed to utilize evidence to impeach the People’s witnesses, failed to cross examine the People’s witnesses regarding “false” charges against him, neglected to impeach the People’s witnesses with “lies” levied against him, and failed to introduce evidence, including emails from various women who “praised being in good company with” him. Additionally, the defendant contends that counsel failed to object to prejudicial evidence, and failed to subpoena and call witnesses at trial, including an unidentified taxi driver. Finally, the defendant alleges that counsel’s ineffective representation continued at the time of sentence and faults counsel

⁴ Although trial counsel was appointed well after the defendant’s arrest, the defendant appears to fault counsel for failing to take action in connection with that arrest.

for failing to object when the People contended that he had assaulted a correction officer, not informing the Court that he had been “brutalized” by court officers and assaulted by correction officers, and for attempting to deny him an opportunity to be heard before the Court imposed sentence. Many of the defendant’s claims are inaccurate and belied by the record, see People v. Richards, 78 A.D.3d 1221 (3d Dept. 2010), and none support his theory that he was provided with ineffective assistance of counsel. Rather, the defendant’s complaints reflect an attempt on his part to second-guess trial strategy. See People v. De Marco, 33 A.D.3d 1045 (3d Dept. 2006). And, of course, a defendant’s disagreement with counsel over trial strategy does not establish ineffective assistance. See People v. Benevento, 91 N.Y.2d 708 (1998); People v. Mackey, 5 A.D.3d 136 (1st Dept. 2004). Indeed, the entirety of the record before this Court makes plain that the defendant received meaningful representation.

To begin, counsel made all relevant and appropriate pre-trial motions on behalf of the defendant. See People v. Ramirez, 22 A.D.3d 334 (1st Dept. 2005); People v. Relford, 186 A.D.2d 91 (1st Dept. 1992). Indeed, counsel filed a pre-trial omnibus motion requesting inspection of the Grand Jury minutes and seeking dismissal of the indictment based on legal and factual sufficiency grounds and alleged improprieties in the proceedings. Counsel also moved to suppress the defendant’s statements to members of law enforcement and any physical evidence recovered from him. Additionally, counsel moved to controvert the search warrants and to suppress any property obtained pursuant to those warrants, and requested a Darden hearing. Based on counsel’s motions, a prior judge ordered Huntley, Mapp, and Dunaway hearings.⁵

Further, counsel took steps to investigate the charges and prepare the case for trial. See

⁵ A prior judge determined that a Darden hearing was not necessary as none of the warrants contained information obtained from a confidential source.

People v. Clarke, 110 A.D.3d 1341 (3d Dept. 2013). Indeed, shortly before the commencement of the pre-trial hearings, the People informed counsel that they intended to introduce numerous emails recovered from the defendant's computer into evidence at trial. Counsel immediately sought authorization from the Court for appointment of a computer expert to assist in analyzing the emails in advance of trial, and his application was granted.

Counsel's meaningful representation continued at the pre-trial suppression hearings. As the hearings commenced, the People informed the Court that a Huntley hearing was unnecessary as they did not intend to use the defendant's statement as part of their case-in-chief. Accordingly, the Court revised the parameters of the hearing and, at the defendant's request, granted a voluntariness hearing instead. At the hearing, counsel examined the evidence introduced by the People, made appropriate objections, and vigorously cross-examined the People's witnesses. After consultation with the defendant, counsel informed the Court that the defendant wished to testify. Then, counsel skillfully directed the defendant's testimony, asking relevant, straightforward questions. Following the testimony, rather than making legal arguments that same day, counsel requested, and was granted, an adjournment to the next day to formulate his arguments. The following day, counsel presented an obviously well-prepared, coherent legal argument. Despite counsel's efforts, the Court rendered a decision denying the defendant's motion to suppress and finding the defendant's statement voluntary. Nevertheless, the transcript makes plain that counsel vigorously represented the defendant throughout the pre-trial hearings, and the Court's decision to deny suppression of the evidence did not render counsel ineffective. See People v. Santos-Rivera, 86 A.D.3d 790 (3d Dept. 2011); People v. Polanco, 13 A.D.3d 100 (1st Dept. 2004).

Additionally, counsel provided meaningful representation relative to pre-trial motions and proceedings. See People v. Thompson, 106 A.D.3d 527 (1st Dept. 2013); People v. Joslyn, 103

A.D.3d 1254 (4th Dept. 2013); People v. McGee, 20 N.Y.3d 513 (2013). For example, shortly before trial, the People submitted a written motion seeking to introduce testimony with respect to five separate excited utterances. Counsel opposed the People's motion in writing, citing relevant case law and making cohesive factual arguments. Counsel then requested, and was granted, an opportunity to present oral argument to the Court. During oral argument, counsel provided the Court with additional case law to support his position. As a result of counsel's persuasive legal arguments, the Court not only limited the scope of two of the excited utterances, but precluded the People from introducing evidence of three alleged excited utterances in their entirety.

Also shortly before the trial was to commence, the People made a Sandoval motion, seeking permission to cross examine the defendant regarding alleged prior bad acts should he choose to testify at trial. Defense counsel opposed the People's motion and in a lengthy, coherent, well-prepared oral argument, urged the Court to deny the People's application. Counsel cited relevant case law and argued that the probative value of the alleged prior bad acts was outweighed by the potential for significant prejudice to the defendant. The Court, agreeing with counsel's arguments, denied the People's application in its entirety.

Then, in light of the voluminous Rosario materials that the People provided to the defendant shortly before the commencement of trial, defense counsel sought and was granted an adjournment of several days to review those materials. Counsel's application to the Court makes plain that although fully familiar with the case against the defendant, his efforts to represent his client vigorously remained ongoing.

The meaningful representation that counsel provided continued at trial. Indeed, counsel conducted a coherent, thoughtful *voir dire* of the potential jurors, asking insightful questions, discussing how to assess the credibility of witnesses, and ensuring the potential jurors understood

the People's burden – proof beyond a reasonable doubt. Then, during the People's opening statement, counsel objected appropriately, including voicing an objection to the People's reference to evidence that had yet to be introduced. Counsel then provided a concise opening statement in which he encouraged the jurors to pay attention to the details and told them that in doing so, they would find reasonable doubt. Counsel's opening demonstrated a reasonable and well thought out defense. See People v. Benitez, 290 A.D.2d 363 (1st Dept. 2002); People v. Edwards, 265 A.D.2d 220 (1st Dept. 1999). Additionally, counsel raised appropriate objections during the People's direct case and thoroughly cross-examined the People's witnesses. See People v. Ryan, 90 N.Y.2d 822 (1997); People v. D'Alessandro, 230 A.D.2d 656 (1st Dept. 1996); People v. Harris, 198 A.D.2d 117 (1st Dept. 1993); People v. Bell, 160 A.D.2d 477 (1st Dept. 1990). Moreover, counsel thoroughly highlighted inconsistencies in the testimony of the People's witnesses, see People v. Jiminez, 239 A.D.2d 360 (2d Dept. 1997), and vigorously sought to undermine the credibility of those witnesses, see People v. Morsby, 5 Misc.3d 64 (N.Y. Sup. App. Term 2004). Further, after consultation with the defendant, counsel called him as a witness. Despite the defendant being accused of multiple crimes against several different women, counsel skillfully directed the defendant's testimony, focusing on the most salient and substantive facts. Additionally, throughout the trial, counsel made appropriate and timely motions, moved for a trial order of dismissal at the close of the People's case, and again after the defendant's case, and actively participated in the charge conference. See People v. Franklin, 205 A.D.2d 470 (1st Dept. 1994); People v. Delvalle, 184 A.D.2d 434 (1st Dept. 1992). Finally, counsel presented a strategically sound summation, arguing that the People had failed to prove the case beyond a reasonable doubt, pointing out the inconsistencies in the testimony of the People's witnesses, and urging the jury to conclude that the People's witnesses lacked credibility. Despite counsel's best efforts, the defendant was convicted of a number of the charges against him.

Of course, a defense that ultimately proves unsuccessful must not automatically be equated with ineffective assistance. See People v. Espinal, 220 A.D.2d 279 (1st Dept. 1995). That notwithstanding, counsel secured an acquittal as to four separate charges, including a class B violent felony offense, which suggests that his representation of the defendant was entirely meaningful. See People v. Corie, 222 A.D.2d 602 (2d Dept. 1995); People v. Holmes, 47 A.D.3d 946 (2d Dept. 2008); People v. Jiminez, 239 A.D.2d 360 (2d Dept. 1997).

Counsel's meaningful representation did not end with the completion of the trial. Indeed, counsel zealously represented the defendant at sentence. See People v. Corie, 222 A.D.2d 602 (2d Dept. 1995). First, counsel discussed the pre-sentence report with the defendant and, having done so, informed the Court that the defendant was prepared to proceed with sentencing. Then, following the People's argument and recommendation of 25 years in state prison for the felony conviction and one year jail on each of the misdemeanor convictions, counsel urged the Court to impose a far more lenient sentence, arguing that the defendant's character and history and lack of a criminal record warranted the minimum. Further, counsel urged the Court not to consider several arguments raised by the People in their recommendation, citing relevant case law. The defendant was then given the opportunity to speak, and did so. When the defendant began to speak about facts related to an open criminal case against him, the Court assured him that it was not considering that case, and urged him to speak to his attorney before disclosing potentially incriminating information on the record, and the defendant did so.

Based on the foregoing, this Court can only conclude that the defendant received meaningful representation from his court-appointed trial counsel. In light, therefore, of the meaningful representation provided to the defendant, the instant motion to vacate the judgment of conviction based on ineffective assistance of counsel is denied without a hearing. See People v. Satterfield, 66

N.Y.2d 796 (1985).

CONSTITUTIONAL SPEEDY TRIAL CLAIM

The defendant also moves this Court to vacate the judgment of conviction, as, he alleges, the People violated his Constitutional speedy trial rights. The defendant's motion is procedurally barred and must, therefore, be denied. In any event, the defendant's claim is without merit.

Pursuant to C.P.L. § 440.10(2)(b), a court *must* deny a motion to vacate a judgment of conviction when "[t]he judgment is, at the time of the motion, appealable or pending on appeal, and sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof based upon such an appeal." In the instant matter, the defendant's claim of a violation of his Constitutional speedy trial rights may be determined on the record in this case. Moreover, the defendant timely filed a notice of appeal, and was subsequently granted leave to appeal as a poor person by the Appellate Division, First Department. Accordingly, the defendant's motion is procedurally barred.

In any event, the defendant's claim is without merit. In determining whether a defendant's Constitutional speedy trial rights have been violated, a court must consider: "(1) the extent of the delay; (2) the reason for the delay; (3) the nature of the underlying charge; (4) whether or not there has been an extended period of pretrial incarceration; and (5) whether or not there is any indication that the defense has been impaired by reason of the delay." People v. Taranovich, 37 N.Y.2d 442, 445 (1975). Mere delays in bringing a case to trial are insufficient to support a motion to dismiss based on Constitutional speedy trial grounds. See People v. Marrero, 259 A.D.2d 836 (3d Dept. 1999). Moreover, there is no *per se* period of delay that has been found unconstitutional, and delays of up to 40 months have been held to be constitutional, based on the specific circumstances of the

case. See People v. Brown, 90 A.D.3d 556 (1st Dept. 2011).

In the instant matter, the defendant was arrested on July 27, 2010, and charged with Rape in the First Degree and related crimes. The defendant was arraigned, bail was set, and the case was adjourned for Grand Jury action. The defendant subsequently waived C.P.L. §§ 180.80 and 30.30 time, presumably to obtain a favorable disposition of the charges. This delay is solely attributable to him. See People v. Waldron, 6 N.Y.3d 463 (2006). Then, on August 10, 2010, when no disposition had been reached, the defendant was indicted for twenty-four offenses, committed against five different victims, including the original rape charge. The case was transferred to Supreme Court, where the defendant was arraigned on September 15, 2010. Following the defendant's Supreme Court arraignment, the case was adjourned several times, at the defendant's request, for motion practice. First, the defendant filed an Omnibus motion, decided by a prior judge on December 6, 2010. The defendant subsequently filed a motion to controvert the search warrant, that was denied by that same judge on March 9, 2011. This delay, occasioned by the defendant in an effort to defend himself against the charges, is solely attributable to him. See People v. Parris, 106 A.D.3d 555 (1st Dept. 2013); People v. Mercer, 105 A.D.3d 1091 (3d Dept. 2013).

As the defendant successfully argued he was entitled to suppression hearings, the case was scheduled for hearings and trial. The hearings began on October 12, 2011, with the trial commencing just days later on October 17, 2011. While the People were not ready for hearing and trial on several occasions between March and October of 2011, neither was defense counsel – who submitted an affirmation that he was unavailable as he had recently undergone surgery. See People v. Johnson, 261 A.D.2d 486 (2d Dept. 1999). Moreover, the People's lack of readiness during this time was attributable to the unavailability of an essential witness who resided in Russia, and the People's efforts to contact her and procure her attendance at trial. See People v. Johnson, 100

A.D.3d 492 (1st Dept. 2012); People v. Brown, 90 A.D.3d 556 (1st Dept. 2011). And, the defendant has simply failed to demonstrate that his defense was impaired as a result of any delay. See People v. Arroyo, 93 A.D.3d 608 (1st Dept. 2012); People v. King, 62 A.D.3d 1162 (3d Dept. 2009); People v. Castillo, 265 A.D.2d 188 (1st Dept. 1999); People v. Gonzalez, 177 A.D.2d 418 (1st Dept. 1991). Accordingly, the defendant's motion to vacate the judgment of conviction based on Constitutional speedy trial grounds is denied.

ALLEGED ROSARIO AND BRADY VIOLATIONS

The defendant further moves this Court to vacate the judgment of conviction, claiming that the People's failure to provide him with the transcript of his Grand Jury testimony violated the tenets of both People v. Rosario, 9 N.Y.2d 286 (1961) and Brady v. Maryland, 373 U.S. 83 (1963). The defendant's motion is procedurally barred and must, therefore, be denied. In any event, the defendant's claim is without merit.

Pursuant to C.P.L. § 440.10(2)(b), a court *must* deny a motion to vacate a judgment of conviction when "[t]he judgment is, at the time of the motion, appealable or pending on appeal, and sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof based upon such an appeal." In the instant matter, the defendant's claims of Rosario and Brady violations are easily discernable based on the trial record. Moreover, the defendant timely filed a notice of appeal, and was subsequently granted leave to appeal as a poor person by the Appellate Division, First Department. Accordingly, the defendant's motion is procedurally barred.

In any event, the defendant's claim is without merit. To begin, in an affirmation dated April 21, 2014, the People aver that at the defendant's arraignment in Supreme Court on September 15,

2010, they provided a copy of the defendant's Grand Jury testimony to his attorney. Nevertheless, the defendant's Grand Jury testimony does not constitute Rosario material. Indeed, as a general rule, Rosario material refers to a prior statement of a witness whom the People intend to call at trial. In the instant matter, the People certainly could not call the defendant as a witness at his own trial. His Grand Jury testimony, therefore, simply did not constitute Rosario material. See People v. Restivo, 209 A.D.2d 448 (2d Dept. 1994); People v. Gardner, 162 A.D.2d 466 (2d Dept. 1990).

Nor did the defendant's Grand Jury testimony constitute Brady material. Indeed, "there can be no withholding or suppression of exculpatory evidence where . . . the defendant knows the witness[] and is aware of [the witness's] testimony." People v. Cramer, 166 A.D.2d 316 (1st Dept. 1990) (internal citations omitted); see People v. Barbera, 220 A.D.2d 601 (2d Dept. 1995). Here, the defendant himself was the witness, and, therefore, he was fully acquainted with his own testimony. His Grand Jury testimony, therefore, simply did not constitute Brady material. Accordingly, the defendant's motion to vacate the judgment of conviction based on alleged Rosario and Brady violation grounds is denied.

The Defendant's Other Claims

Criminal Procedure Law Section 440.10(1) sets forth a number of grounds upon which a court may vacate a judgment of conviction. While the defendant's motion purports to be a motion to vacate the judgment of conviction pursuant to C.P.L. § 440.10, the defendant also appears to raise numerous additional claims not enumerated by the statute. A C.P.L. § 440.10 motion is not, therefore, the appropriate vehicle for such claims. Nevertheless, due to the defendant's *pro se* status, the Court has endeavored to address each of the defendant's claims and finds them to be without merit.

RECUSAL MOTION

The defendant moves this Court to recuse itself, presumably from deciding the instant C.P.L. § 440.10 motion. In support of his motion, the defendant claims that the Court played a role in causing him to be “wrongly convicted in the flagrant violation” of his Constitutional rights, resulting in “a gross injustice.” Moreover, the defendant contends that the Court “maliciously colluded” with a prior judge, the District Attorney’s office, and defense counsel, to secure his conviction “at all cost and save face in the public opinion for having lynch law [sic] a defenseless poor black foreign African-French journalist.” The defendant’s motion for recusal is denied.

The Judiciary Law dictates recusal under certain circumstances specifically enumerated in the statute. See Judiciary Law § 14. In the absence of a legal disqualification pursuant to the Judiciary Law, however, the court before which the matter is pending “is the sole arbiter of recusal.” People v. Moreno, 70 N.Y.2d 403, 405 (1987). Indeed, the discretionary decision to grant recusal “is within the personal conscience of the court,” id., and only warranted “where there exists a direct, personal, substantial or pecuniary interest in reaching a particular conclusion or where a clash in judicial roles is to be seen.” Levi v. Levi, 46 A.D.3d 520, 521 (2d Dept. 2007) (internal citations omitted).

In the instant matter, the defendant cites no legal basis pursuant to the Judiciary Law requiring the Court’s recusal. Rather, he alleges what he perceives to be a generalized injustice. Moreover, he fails to provide any concrete examples of alleged improprieties committed by the Court. Thus, in the absence of any proof of actual bias or prejudice, the Court is not required to recuse itself. See Impastato v. Impastato, 62 A.D.3d 752 (2d Dept. 2009). In any event, this Court, having examined its own thoughts and feelings, is confident that it harbors no bias, prejudice, or animosity towards the defendant, requiring recusal. See People v. Argentieri, 66 A.D.3d 558 (1st

Dept. 2009). Accordingly, the defendant's motion for recusal is denied.

MOTION FOR GAG ORDER AND SEIZURE OF PHOTOGRAPHS

The defendant alleges that members of law enforcement took photographs of his "private parts," and urges this Court to order that those photographs be seized and that a "gag order" be placed on those members of law enforcement. The defendant, however, provides no proof that such photographs exist, no concrete evidence that those photographs are in the possession of law enforcement, and no legal basis for the Court to grant such a motion. Moreover, the Court finds no legal authority granting it the ability to seize evidence and/or direct how evidence be handled, particularly in the context of a motion to vacate a judgment of conviction pursuant to C.P.L. § 440.10. Accordingly, the defendant's motion must be denied.

MOTION FOR RELEASE OF THE TRIAL TRANSCRIPT

The defendant, claiming that the stenographic minutes of his trial proceeding were "altered" and "conceiled [sic]" "in a conspiracy" among court reporters, trial counsel, the District Attorney's office, and the Office of the Appellate Defender, moves this Court to recover minutes that he alleges are missing, and to release the "altered" minutes. As a preliminary matter, the defendant fails to provide any evidence supporting his contention that portions of the minutes are missing, or that the minutes have been altered.

In any event, by decision dated February 22, 2012, the Appellate Division, First Department, granted the defendant leave to appeal as a poor person, and directed that the stenographic minutes of the defendant's trial be filed with the criminal court and provided to appellate counsel. To the extent that the defendant is requesting that this Court furnish a copy of the trial transcript directly

to him, this Court lacks the statutory authority to grant such a request. Only a court in which an action is triable or to which an appeal has been taken has the statutory authority to provide a defendant with a trial transcript. See C.P.L.R. § 1101(a). Additionally, an appellate court is the only court with statutory authority to provide a free trial transcript in a criminal proceeding to an indigent defendant. See C.P.L.R. § 460.70(1). Moreover, neither the State nor Federal Constitutions mandate that a defendant pursuing a post-conviction motion receive a free copy of the trial transcript. See Pennsylvania v. Finley, 481 U.S. 551 (1987); People v. Bogle, 17 Misc.3d 1134(A) (N.Y. Sup. 2007); People v. Duran, 2009 WL 2129435 (N.Y. Sup. 2009); People v. Gonzalez, 7 Misc.3d 1026(A) (N.Y. Sup. 2005). Accordingly, the defendant's motion must be denied.

MOTION FOR RELEASE OF THE DEFENDANT'S GRAND JURY TESTIMONY

The defendant, claiming that his grand jury testimony was "maliciously withheld" from him by the People and defense counsel, moves this Court to "release" that testimony. In an affirmation dated April 21, 2014, the People aver that at the defendant's arraignment in Supreme Court on September 15, 2010, they provided a copy of the defendant's grand jury testimony to his attorney. The defendant provides no evidence to support his claim that either of his court-appointed attorneys subsequently withheld that testimony from him. Moreover, the Court has no legal authority to order the People to provide an additional copy directly to the defendant. Accordingly, the defendant's motion must be denied.

MOTION FOR RELEASE OF THE "TRIAL TRANSCRIPT'S VOICE RECORDING"

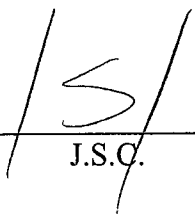
The defendant, again claiming that the trial transcript was altered by "corrupt" court reporters "in complicity with" trial counsel, the District Attorney's office, and the Office of the Appellate

Defender, moves this court to release the "trial transcript's voice recording." Presumably, the defendant believes that in addition to the stenographic minutes, the trial was electronically recorded in some manner. This Court notes, however, that the trial was not electronically recorded, and, therefore, no audio or "voice" recording exists. Accordingly, the defendant's motion must be denied.

Conclusion

The defendant's motion to vacate the judgment of conviction is denied. This constitutes the Decision and Order of the Court. The Clerk of the Court is directed to mail copies of this Decision and Order to the defendant and to the New York County District Attorney.

Dated: New York, New York
October 3, 2014



J.S.C.

STATE OF NEW YORK, COUNTY OF NEW YORK, ss.,
I, NORMAN GOODMAN, County Clerk of the Supreme Court, New York County, do hereby certify that I have compared the attached paper consisting of *twenty* pages with the original thereof filed in my office and that same is a correct transcript of the original and of the whole thereof. IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal.

NOT VALID WITHOUT

SEAL UPON EACH PAGE



COUNTY CLERK AND CLERK OF THE SUPREME COURT, NEW YORK COUNTY

APPENDIX F

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST JUDICIAL DEPARTMENT

BEFORE: Hon. DAVID FRIEDMAN
Justice of the Appellate Division

-----X
The People of the State of New York,

M-6397
Ind. No. 3884/10

-against-

CERTIFICATE
GRANTING LEAVE

Hugues D. Akassay,
Defendant.

-----X
I, DAVID FRIEDMAN, a Justice of the Appellate Division, First Judicial Department, do hereby certify that in the proceedings herein questions of law or fact are involved which ought to be reviewed by the Appellate Division, First Judicial Department, and, pursuant to Section 460.15 of the Criminal Procedure Law, permission is hereby granted to the above-named defendant to appeal to the Appellate Division, First Judicial Department, from the Order of the Supreme Court, New York County, entered on or about October 3, 2014.¹

Dated: New York, New York
February 2, 2015

David Friedman

ENTERED

FEB 10 2015

DAVID FRIEDMAN
Justice of the Appellate Division

NOTICE: Within 15 days from the date hereon, an appeal must be taken, and this certificate must be filed with the notice of appeal. An appeal is taken by filing, in the Clerk's office of the criminal court in which the order sought to be appealed was rendered, a written notice in duplicate that appellant appeals to the Appellate Division, First Judicial Department (Section 460.10, subd. 4, CPL), together with proof that another copy of the notice of appeal has been served upon opposing counsel. The appeal (or consolidated appeals; see footnote) must be argued within 120 days from the date of the notice of appeal, unless the time to perfect the appeal(s) is enlarged by the court or a justice thereof.

¹In the event defendant has an existing (direct) appeal from a judgment, such appeal shall be consolidated with the appeal from the aforesaid order; and any poor person relief granted with respect to the appeal from the judgment shall be extended to cover the appeals so consolidated.

APPENDIX G

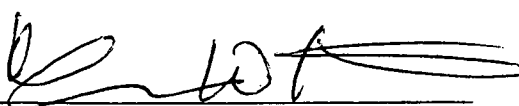
November 17, 2015

The United States Department of Homeland Security (Department), by and through counsel, respectfully requests a short continuance in the instant proceedings pursuant to 8 C.F.R. § 1003.29. This matter is currently scheduled for a master hearing on December 17, 2015; the Department seeks a continuance not to exceed three months.

According to the New York Department of Corrections and Community Supervision website, the respondent's earliest possible release date is September 11, 2027. The respondent's 2011 conviction for Rape in the First Degree, three counts of Aggravated Harassment in the Second Degree, and two counts of Stalking in the Third Degree is currently on appeal. The resolution of this appeal, while not dispositive of all issues in the instant proceedings, will clarify whether the respondent is removable on additional grounds and whether the respondent is eligible for certain forms of relief. On November 16, 2015, the Department contacted the Office of the Clerk of the Court, Appellate Division, First Judicial Department, of the Supreme Court of the State of New York. That office advised that the respondent's appeal was heard on November 10, 2015 and that a written decision is pending.

Therefore, the Department respectfully requests that the court grant this motion to adjourn the instant proceedings based on a showing of good cause.

Respectfully submitted,

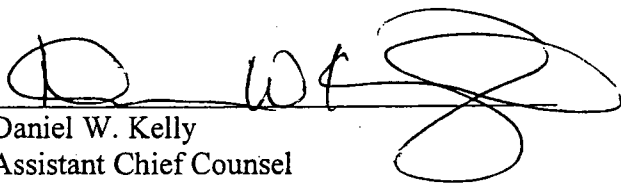

Daniel W. Kelly
Assistant Chief Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

17 Nov 2015
Date

PROOF OF SERVICE

On November 17, 2015, I, Daniel W. Kelly, hereby certify that I caused to be served by first-class mail a true and correct copy of this Motion for a Continuance upon the respondent, pro se, at the following address:

Hugues Akassy
DIN# 11 A 5580
Clinton Correctional Facility
1156 Route 374
P.O. Box 2001
Dannemora, NY 12929


Daniel W. Kelly
Assistant Chief Counsel
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement

17 Nov 2015
Date

APPENDIX H

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 10, 2014.

PRESENT: Hon. Rolando T. Acosta, Justice Presiding,
Dianne T. Renwick
Karla Moskowitz
Helen E. Freedman
Paul G. Feinman, Justices.

-----X
The People of the State of New York,
Respondent,

-against-

M-632
Ind. No. 3884/10

Hugues D. Akassay, also known as
Hugues Denver Akassay, also known as
Hughues D. Akassay,
Defendant-Appellant.

-----X
An appeal having been taken to this Court from the judgment of the Supreme Court, New York County, rendered on or about November 17, 2011,

And defendant-appellant, pro se, having moved to "strike" or to vacate the record on appeal, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 24, 2013.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
 Peter Tom
 David B. Saxe
 Sallie Manzanet-Daniels
 Judith J. Gische, Justices.

-----X
The People of the State of New York,

Respondent,

-against-

M-4745
Ind. No. 3884/10

Hugues D. Akassay, also known as Hugues
Denver Akassay,


Defendant-Appellant.
-----X

An order of this Court having been entered on February 14, 2012 (M-168), granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about November 17, 2011, and assigning Richard M. Greenberg, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


DEPUTY CLERK

APPENDIX I

Sweeny, J.P., Acosta, Andrias, Moskowitz, JJ.

16321-
16322 &
M-5674

Ind. 3884/10

The People of the State of New York,
Respondent,

-against-

Hugues-Denver Akassy,
Defendant-Appellant.

Richard M. Greenberg, Office of the Appellate Defender, New York
(Eunice C. Lee of counsel), for appellant.

Hugues-Denver Akassy, appellant pro se.

Cyrus R. Vance, Jr., District Attorney, New York (Gina Mignola of
counsel), for respondent.

Judgment, Supreme Court, New York County (Jill Konviser,
J.), rendered November 17, 2011, as amended December 29, 2011,
convicting defendant, after a jury trial, of rape in the first
degree, three counts of aggravated harassment in the second
degree, and two counts of stalking in the third degree, and
sentencing him to an aggregate term of 20 years, and order (same
court and Justice), entered on or about October 3, 2014, which
denied defendant's CPL 440.10 motion to vacate the judgment of
conviction, unanimously affirmed.

We reject defendant's challenges to the sufficiency and
weight of the evidence supporting his rape conviction (see *People*

v Danielson, 9 NY3d 342, 348-349 [2007])). Even without testimony from the victim, a foreign tourist who did not return to the United States for trial, there was ample evidence, in many forms, to support the conclusion that the sex act was forcible, and not consensual as claimed by defendant.

The court properly admitted, under the excited utterance exception to the hearsay rule, statements that the victim made to a man she approached after she emerged from a wooded area in the park where the incident occurred (see *People v Johnson*, 1 NY3d 302 [2003]; *People v Gantt*, 48 AD3d 59, 64 [1st Dept 2007], 1v denied 10 NY3d 765 [2008])). The record fully supports inferences that the victim's statements closely followed a startling event, and were "so influenced by the excitement and shock of the event that it is probable that . . . she spoke impulsively and without reflection" (*People v Caviness*, 38 NY2d 227, 231 [1975])).

We perceive no basis for reducing the sentence.

We have considered and rejected defendant's pro se arguments, including those relating to the court's denial of his

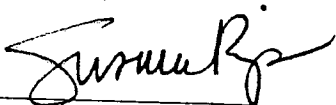
CPL 440.10 motion (45 Misc 3d 1211[A], 2014 NY Slip Op
51543[U][Sup Ct, NY County 2014]).

**M-5674 - *The People of the State of New York v
Hugues-Denver Akassy***

Motion to declare a default and for
other relief denied.

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

ENTERED: DECEMBER 8, 2015


CLERK

APPENDIX J

State of New York Court of Appeals

BEFORE: HON. EUGENE F. PIGOTT, JR.,
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

HUGUES-DENVER AKASSY,

Appellant.

**ORDER DENYING
LEAVE TO APPEAL
AND
DENYING STAY**

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case,* and having moved for a stay pursuant to Criminal Procedures Law § 460.60;

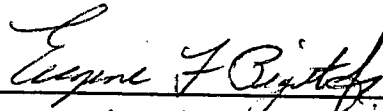
UPON the papers filed and due deliberation, it is

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

ORDERED that the application for a stay is denied.

Dated: Buffalo, New York

this 11th day of May, 2016.


Associate Judge

* **Description of Order:** Order of the Appellate Division, First Judicial Department, entered December 8, 2015, which affirmed a judgment of Supreme Court, New York County, rendered November 17, 2011, as amended December 29, 2011; and which affirmed an order of Supreme Court, New York County, entered October 3, 2014.

APPENDIX K



**United States District Court
Southern District of New York**

INSTRUCTIONS FOR LITIGANTS WHO DO NOT HAVE ATTORNEYS

Case Name: Akassy v Kirkpatrick

Docket No.: 16cv7201

District Judge Assigned: Loretta A. Preska

Magistrate Judge Assigned: Andrew J. Peck

Your case has been assigned a docket number, a district judge, and a magistrate judge. **Everything that you send to the court concerning this case must be labeled with the case name and docket number (including the initials of the district judge and any magistrate judge before whom the case is pending) listed above.** You must mail or deliver any papers you file in your case to the Pro Se Intake Unit at 500 Pearl Street, Room 200, New York, New York, 10007, or, if your case is pending in the White Plains Courthouse, at 300 Quarropas Street, White Plains, NY 10601-4150. *Do not send any documents directly to a judge unless ordered to do so.*

If your contact information changes, it is your responsibility to notify the court in writing, even if you are incarcerated and transferred to another facility or released from custody. Fill out the "Notice of Change of Address" form included with this letter (or write a letter asking for your address to be changed) and send it to the Pro Se Intake Unit. It is not sufficient to send an envelope with a new return address or submit a letter with a new address listed without asking for your address to be officially changed. Your case could be dismissed if you do not notify the court of an address change.

Your case has been assigned to a district judge and a magistrate judge. The district judge may handle all matters in your case or may "refer" your case to the magistrate judge for certain pretrial issues. If you and all the other parties in your case agree to have your case proceed before the magistrate judge for *all purposes*, including trial, your case may proceed more quickly. A form for all parties to complete if they agree to have the trial before a magistrate judge is enclosed. For more information, refer to the handout "United States Magistrate Judges: Referrals and Consents."



United States District Court
Southern District of New York

INSTRUCTIONS FOR LITIGANTS WHO DO NOT HAVE ATTORNEYS

Case Name: Akassy v Kirkpatrick

Docket No.: 16cv7201

District Judge Assigned: Loretta A. Preska

Magistrate Judge Assigned: Andrew J. Peck

Your case has been assigned a docket number, a district judge, and a magistrate judge. **Everything that you send to the court concerning this case must be labeled with the case name and docket number (including the initials of the district judge and any magistrate judge before whom the case is pending) listed above.** You must mail or deliver any papers you file in your case to the Pro Se Intake Unit at 500 Pearl Street, Room 200, New York, New York, 10007, or, if your case is pending in the White Plains Courthouse, at 300 Quarropas Street, White Plains, NY 10601-4150. *Do not send any documents directly to a judge unless ordered to do so.*

If your contact information changes, it is your responsibility to notify the court in writing, even if you are incarcerated and transferred to another facility or released from custody. Fill out the "Notice of Change of Address" form included with this letter (or write a letter asking for your address to be changed) and send it to the Pro Se Intake Unit. It is not sufficient to send an envelope with a new return address or submit a letter with a new address listed without asking for your address to be officially changed. Your case could be dismissed if you do not notify the court of an address change.

Your case has been assigned to a district judge and a magistrate judge. The district judge may handle all matters in your case or may "refer" your case to the magistrate judge for certain pretrial issues. If you and all the other parties in your case agree to have your case proceed before the magistrate judge for *all purposes*, including trial, your case may proceed more quickly. A form for all parties to complete if they agree to have the trial before a magistrate judge is enclosed. For more information, refer to the handout "United States Magistrate Judges: Referrals and Consents."

500 PEARL STREET | NEW YORK, NY 10007
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

PRO SE INTAKE UNIT: 212-805-0175

UNITED STATES DISTRICT COURT

for the
Southern District of New York

Hugues-Denver Akassy

Plaintiff

v.

Michael Kirkpatrick

Defendant

Civil Action No. 16-CV-7201 (AJP)

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

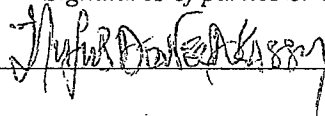
Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

Parties' printed names

Signatures of parties or attorneys

Dates

Hugues-Denver Akassy



Sept. 28, 2016

Michael Kirkpatrick,

Office of N.Y. Att. General

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: _____

District Judge's signature_____
Printed name and title

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.



**United States District Court
Southern District of New York**

**UNITED STATES MAGISTRATE JUDGES:
REFERRALS AND CONSENTS**

All cases in the Southern District of New York are assigned to two judges: a district judge and a magistrate judge. District judges are appointed for life terms by the President. Magistrate judges are selected by a majority vote of the district judges in the particular district and serve terms of eight years.

Referrals to the Magistrate Judge: The district judge assigned to your case may refer the case to a magistrate judge for specific purposes. Commonly, the referral will be for the magistrate judge to conduct the proceedings that occur before trial, such as resolving discovery disputes or presiding over settlement conferences. A referral may also be made for the magistrate judge to issue to the district judge a report and recommendation on how to resolve a motion, such as a motion to dismiss or a motion for summary judgment. The consent of the parties is not needed for the district judge to refer the case to the magistrate judge for these purposes. If the district judge has made such a referral, you can ask the district judge to review any magistrate judge's decision by filing an objection with the district judge within fourteen days of that decision. The district judge will rule on any timely objections that you file. If you do not file an objection, you will give up your right to challenge the magistrate judge's decision at a later time, including on appeal. *See* Federal Rule of Civil Procedure 72.

Consent to Proceed Before the Magistrate Judge: If you would like your case to move more quickly, it is helpful to consent to proceed before the magistrate judge for all purposes, including any trial. If all parties consent, the magistrate judge will perform the identical function that the district judge would have performed. Any trial in your case would be either a jury or a nonjury trial, depending upon whether there is a right to a jury trial and a proper request for such a trial. The only difference is that the magistrate judge – and not the district judge – would preside over that trial. Cases that proceed for all purposes before a magistrate judge generally move more quickly than cases before a district judge. If all parties consent to proceed before the magistrate judge, the district judge plays no further role in the case. Any appeal is taken directly to the Court of Appeals. It is your choice whether or not to consent to proceed before the magistrate judge.

A copy of the appropriate consent form is attached. Additional forms are also available from the Pro Se Intake Unit and on the Court's website.

500 PEARL STREET | NEW YORK, NY 10007
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

PRO SE INTAKE UNIT: 212-805-0175

INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE ANDREW J. PECK

Cases come before magistrate judges in one of two ways: for one or more specific purposes pursuant to an order of reference by the assigned district judge, or, on consent of the parties, for all purposes pursuant to 28 U.S.C. § 636(c). When a district judge approves an all-purposes consent form signed by counsel, the magistrate judge assumes the role of the district judge. Any appeal is directly to the Court of Appeals and the right to a jury trial is preserved.

It is the uniform practice of the magistrate judges in this District to schedule trials in civil consent cases for firm dates, rather than using a trailing trial calendar or requiring counsel to be available for trial on short notice. Additionally, because magistrate judges rarely try criminal cases, such firm trial dates are unlikely to be changed to accommodate criminal trials. Should counsel wish to consent to have Judge Peck hear their case for all purposes, the necessary form is available at <http://www1.nysd.uscourts.gov/judge/peck>.

Unless otherwise ordered by Judge Peck, matters before him shall be conducted in accordance with the following practices. These practices are applicable to cases before Judge Peck if the matter is within the scope of the district judge's order of reference or if the case is before Judge Peck for all purposes pursuant to 28 U.S.C. § 636(c). Otherwise, the practices of the district judge to whom the case is assigned apply.

1. Communications With Chambers

A. Letters. Except as otherwise provided below, communications with the Court should be by letter. Unless there is a request to file a letter under seal or a letter contains sensitive or confidential information, letters should be filed electronically on ECF. Letters to be filed under seal or containing sensitive or confidential information should be delivered to the Court by fax. Whether filed electronically or not, letters (together with any related exhibits) may not exceed 15 pages in length. Letters solely between parties or their counsel or otherwise not addressed to the Court may not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document).

B. Telephone Calls. In addition to Paragraph 1(D) below, telephone calls to chambers are permitted. Call chambers at 212-805-0036.

C. Faxes. Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than 15 pages may be faxed without prior authorization. Do not follow with hard copy. The fax number is 212-805-7933.

D. Docketing, Scheduling, and Calendar Matters. For docketing, scheduling and calendar matters, call Judge Peck's secretary, Diane Kelly, at 212-805-0036.

✓**E. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions. (If a request contains sensitive or confidential information, it may be submitted by fax in lieu of being filed electronically.) The letter-motion must state: (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least two days prior to the scheduled appearance. Extension requests usually will not be granted unless they are made reasonably in advance of the date(s) sought to be extended.

2. Motions

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, pre-motion conferences are not required.

B. Letter-Motions. Letter-motions may be filed via ECF if they comply with the S.D.N.Y. Local Rules and the S.D.N.Y. "Electronic Case Filing Rules and Instructions." In particular, all requests for adjournments, extensions, and pre-motion conferences (including pre-motion conferences with respect to discovery disputes) should be filed as letter-motions. A courtesy copy should not be provided to Chambers.

C. Courtesy Copies. Courtesy copies of all motion papers, pleadings, objections and other Court filings (including any correspondence to the District Judge), marked as such, should be submitted for chambers, including in ECF cases. Courtesy copies are to be provided to Judge Peck's chambers at the time the papers are served on the adversary, regardless of when the motion papers are filed and regardless of whether the motion will be decided by Judge Peck or the District Judge.

D. Memoranda of Law. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

E. Filing of Motion Papers. Motion papers shall be filed promptly after service.

F. Oral Argument on Motions. Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

G. Briefing Schedule. Papers in opposition to a motion are to be served 14 days after service of the motion and reply papers (if any) 7 days thereafter, unless a different schedule has been ordered by the Court.

3. Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases. Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery in a civil case or within 30 days of decision by the Court of a case-dispositive summary judgment motion, the parties shall submit to the court for its approval a joint pretrial order, which shall include the information required by Federal Rule of Civil Procedure 26(a)(3) plus the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, along with the Proposed Pretrial Order:

- i. In jury cases, requests to charge and proposed voir dire questions, and where applicable, a proposed special verdict form. The parties must submit a single, unified set of proposed jury instructions on the law applicable to the specific case; where an instruction is not agreed upon, the parties should indicate who is proposing the instruction and the legal basis for the instruction and for the other party's opposition to the instruction. In addition to the paper copy, an electronic version, in WordPerfect if possible, must be emailed to my secretary at Diane_M_Kelly@nysd.uscourts.gov. This email address may not be used for any other submissions absent prior Court approval.

ii. In nonjury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;

iii. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and

iv. In any case where such party believes it would be useful, a pretrial memorandum.

v. In all cases, two sets of each party's pre-marked trial exhibits.

Copies of Judge Peck's "standard" jury instructions on the trial process and "standard" voir dire questions are available from chambers.

4. Other Information

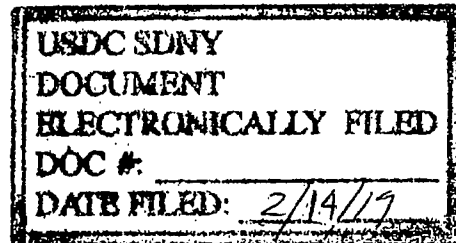
A. "Rocket Docket." The parties should be aware that Judge Peck runs a "rocket docket." Discovery disputes should be brought to the Court's attention promptly; in the Court's discretion, belated applications to compel discovery may be denied as untimely.

B. Electronic Discovery. I endorse the "Sedona Conference Cooperation Proclamation," available at www.TheSedonaConference.Org. Counsel also should be familiar with my decision in William A. Gross Constr. Assocs., Inc. v. Am. Mfrs. Mutual Ins. Co., 256 F.R.D. 134 (S.D.N.Y. 2009), and Judge Grimm's decision in Mancia v. Mayflower Textiles Servs. Co., 253 F.R.D. 354 (D. Md. 2008).

[AJP Rev. as of 5/5/15]

APPENDIX I

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----x
HUGUES-DENVER AKASSY,
:
Petitioner,
:
:
-against-
:
:
MICHAEL KIRKPATRICK,
:
Respondent.
:
-----x

16-cv-7201 (LAP)

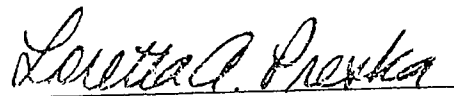
ORDER

LORETTA A. PRESKA, Senior United States District Judge:

Before the Court is Petitioner's request to recuse Magistrate Judge Parker. A motion to recuse is to be addressed to the judge the party seeks to recuse. The remedy for a denial of that motion is appeal. Accordingly, to the extent that Petitioner seeks to recuse Judge Parker, he shall direct his motion to recuse to Judge Parker.

SO ORDERED.

Dated: New York, New York
February 14, 2019


LORETTA A. PRESKA
Senior United States District Judge

APPENDIX M

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 03/01/2019**

-----X
HUGUES-DENVER AKASSY,

Petitioner,

ORDER

-against-

1:16-cv-07201 (LAP) (KHP)

MICHAEL KIRKPATRICK,

Respondent.
-----X

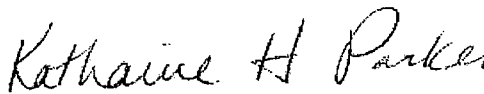
KATHARINE H. PARKER, UNITED STATES MAGISTRATE JUDGE

In a letter addressed to Hon. Loretta A. Preska, Petitioner requested that the undersigned recuse herself from this action. (Dkt. No. 82.) The Court is in receipt of Petitioner's letter submission and will issue a decision regarding the pending application. Petitioner should not submit an additional application.

The Clerk of Court is respectfully directed to mail a copy of this Order to Petitioner.

SO ORDERED.

Dated: March 1, 2019
New York, New York


KATHARINE H. PARKER

February 25, 2019

Magistrate Judge Katharine H. Parker
United States District Court
Southern District of New York
U.S. Courthouse, 500 Pearl Street
New York, N.Y. 10007-1312

ETHICS VIOLATION COMPLAINT

RE: Requesting a Recusal From my Case Due to Ethics Violation, Racial Bias, Abuse of Discretion and Obstruction of Justice, in the Matter of Akassy v. Kirkpatrick, Docket No. 16-CV-7201(LAP)(KHP)

Before Magistrate Judge Parker:

Having submitted this Letter-as-Motion for a Recusal by error to the Honorable District Judge Loretta A. Preska, on January 31, 2019, by the Court's Order dated February 14, 2019, received on February 22, 2019, I respectfully move to re-submit my request (see attached as Exhibit A) to your Honor's attention.

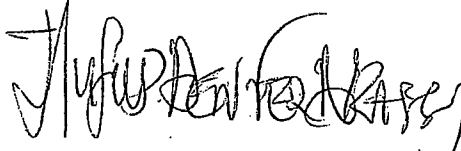
Because my Pro Se Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 by a Person in State Custody, No. 16-CV-7201(LAP)(AJP), was assigned to Magistrate Judge Andrew J. Peck, and not to your Honor; because you knowingly and willfully suppressed my exculpatory Grand Jury evidence materials in reference to (i) the People's True Bill of Indictment (SR36) checkmarked on a 4-count, not an indictment on a 24-count, and signed by New York County District Attorney Cyrus R. Vance Jr., as the Grand Jury Foreman but not by the Grand Jury's, whose documents were known to be a forgery, (ii) and Respondent's acknowledgment letter dated July 21, 2017 (Dkt. #57), from your Report and Recommendation dated December 7, 2018, denying me justice, as I raised them in my statement of facts (see attached as Exhibit A) Id., I conclude from your actions taken that they are illegal, an abuse of discretion, obstruction of justice, racially biased, blatantly unfair and prejudicial in violation of federal laws and ethics.

Accordingly, Pursuant to Federal Code Annotated 28 U.S.C.A. § 636, Jurisdiction, Powers, and Temporary Assignment, I respectfully ask, your Honor, not only to recuse yourself as a Magistrate Judge from my case, but in the interest of justice and fairness, to retract your Report and Recommendation on my Writ of Habeas Corpus, as well as your premature published Opinion and Order on my Subpoena dated January 8, 2019, as totally inaccurate and factually incorrect.

Because the time for the resolution of my case has been unfairly squandered, I ask that the Honorable District Judge Preska, shall have solely full subject matter jurisdiction to review and decide my Writ of Habeas Corpus.

For the reasons set forth, I respectfully ask, your Honor, to
recuse yourself from my case for a swift justice under the law.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner, Pro Se
DIN #: 11 A 5580
Clinton Correctional Facility
P.O. BOX 2001
Dannemora, New York 12929

SWORN TO BEFORE ME
This 28th of February, 2019


NOTARY PUBLIC

JOHN ANDREW FARRELL
Notary Public, State of New York
No. 01FA6381949
Qualified in Clinton County
Commission Expires 10/15/20 22

cc: Magistrate Judge Katharine Parker
United States District Court for
the Southern District of New York

. The Pro Se Intake Unit
United States District Court for
the Southern District of New York

ATTACHMENT

January 29th, 2019

The Honorable Loretta A. Preska
United States District Judge
United States District Court
Southern District of New York
U.S. Courthouse, 500 Pearl Street
New York, N.Y. 10007-1312

ETHICS VIOLATION COMPLAINT

RE: Requesting the Removal of Magistrate Judge Katharine H. Parker
From my Case Due to Ethics Violation, Racial Bias, Abuse of
Discretion and Obstruction of Justice, in the Matter of Akassy
v. Kirkpatrick, Docket No. 16-CV-7201(LAP)(KHP)

Honorable District Judge Preska:

Pursuant to Federal Code Annotated 28 U.S.C.A. § 636, Jurisdiction, Powers, and Temporary Assignment, I humbly and respectfully move to ask this Court to remove Magistrate Judge Katharine H. Parker from my Pro Se Petition for Habeas Corpus under 28 U.S.C.A. § 2254 by a Person in State Custody, Docket No. 16-CV-7201(LAP)(KHP), due to Ethics Violation, Racial Bias, Abuse of Discretion and Obstruction of Justice, as follows:

(1) On September 28, 2016, the United States District Court for the Southern District of New York, assigned my Pro Se Petition for Writ of Habeas Corpus under 28 U.S.C.A. § 2254 by a Person in State Custody, to this Court of the Honorable District Judge Loretta A. Preska, and to the Honorable Magistrate Judge Andrew J. Peck.

(2) Magistrate Judge Peck, proceeded to send me the Court's Individual Practice Requirements with instructions to proceed with his Court.

(3) Upon a preliminary review of my case and request to "Seal Certain Exhibits and Court Records," (Dkt. No. 10), this Court (of the Honorable District Judge Loretta A. Preska), denied it, citing *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an Appellant demonstrates good faith when he seeks of a nonfrivolous issue) (Dkt. No. 19), and I concurred with this Court decision for transparency.

(4) By Order dated January 6, 2017, this Court referred my case to Magistrate Judge Peck, for litigation and Respondent's attorney, Volunteer Assistant Attorney General Margaret Ann Cieprisz and I, began our proceedings.

(5) But on January 9, 2017, without warning, Magistrate Judge Katharine H. Parker seized my case from Magistrate Judge Peck, and the Court Docket Sheet does not indicate who signed up the "Notice of Reassignment of a Referral to Another Magistrate Judge." It is

crystal clear that this Court did not refer my case to Magistrate ¹ Judge Parker, but to Magistrate Judge Peck. The fact that Magistrate Judge Parker seized my case without warning, is quite troubling because she never sent me the Court's Individual Practice Requirements with instructions on how to proceed with her Court as Magistrate Judge Peck did so, and I had no idea how to proceed with her Chamber.

(6) On February 10, 2017, Respondent moved to file an Interlocutory Appeal in coordination with Magistrate Judge Parker, asking the United States Court of Appeals for the Second Circuit's Judge Barrington D. Parker, to overrule this Court's decision to "un-seal 'Certain Exhibits and Court Records'" (Dkt. No. 32), to temporarily seal the full name and any documents identifying the alleged "rape victim T.A." who was in fact, not a rape victim at all because our romantique-tryst by the Riverside Park in Manhattan over wine, champagne, food, bouquet of red roses, kissing, hugging, cuddling, (witnessed by a freelance photographer of The National Geographic who did share glasses of wine with us - but was never called to testify at trial) and ended up into sex, was truly consensual.

(7) But in her inaccurate Report and Recommendation, Magistrate Judge Parker referred T.A. as a "rape victim" in foot-note, despite the fact that she never accused me in Court that I had somehow raped her nor attacked her as Magistrate Judge Parker slandered me about.

(8) Magistrate Judge Parker, siding with Respondent, moved to grant 2 more extension of times - dragging the resolution of my case to several months - to perfect an answer to my Habeas Corpus, on top of the 2 extension of times already granted by this Court as it was Respondent's intention to perfecting a delay tactics in order to invent facts and deflections to fully address my exculpatory Grand Jury evidence materials submitted to be exonerated. (Dkt. Nos. 15, 20, 26, 29).

(9) Magistrate Judge Parker, even though she ordered Respondent to answer to my "Letter-as-Motion Seeking Permission to Amend Court Evidence" of Rap-Sheet (Dkt. No. 55), proving that I was not indicted on a 24-count and that the prosecutors' purported Grand Jury Indictment and True Bill(s) of Indictment(s) signed and checkmarked on a 4-count and un-signed on a 24-count, were fraudulent documents and forgeries (Dkt. No. 56), allowed Respondent to have her answer in a letter dated July 21, 2017, concealed as a sealed document within Docket No. 57, as noted:

¹ Ms. Katharine H. Parker, was appointed Magistrate Judge by the United States District Court for the Southern District of New York, in 2016, the same year I filed my Pro Se Petition for Writ of Habeas Corpus under 28 U.S.C.A. § 2254 by a Person in State Custody.

. Magistrate Judge Parker did suppress Respondent's letter dated July 21, 2017, (Dkt. No. 57) from her Report & Recommendation.

"RESPONSE to Motion re: 47 MOTION for Reconsideration re; 43 Order on Motion to Seal Document...[Response] to Doc. 56. Document filed by Michael Kirkpatrick. (Cieprisz, Margaret) (Entered: 07/21/2017)"

But Respondent's answer (Dkt. No. 57) to my Amendment (Dkt. No. 55), is not a required document to be sealed because it is an exculpatory evidence to my compelling claim that the Grand Jury dismissed the People's purported 24-count of indictment, and that the prosecutors' purported "true bill of indictment(s)", one signed and checkmarked on a 4-count by New York County District Attorney Cyrus R. Vance Jr. as the Grand Jury's "Foreperson," and another un-signed, stampless and numberless on a 24-count, were both a forgery - a felony crime in violation of state and federal laws, as Respondent conceded in answer dated July 21, 2017, Id., that:

"...The indictment and the true bill [signed] by the jury foreperson (SR 24-36) are the official record of the charges for which Petitioner was indicted." (See Letter attached as Exhibit A).

(10) In the Matter of Orly Jeilinek, the Wife of the New York Police Department's Captain - Suppressed E-mail Evidence

Magistrate Judge Parker shied away from the state criminal court record of e-mail evidence materials Nos. 000009 & 000010, as life-threatening message from the white Jewish NYPD-Captain married to Orly Jeilinek, a white Jewish then-50-year-old women I had a 3 month romantique affaire with whose trumped-up charges of "Criminal Sexual Acts and Sexual Abuses" within the prosecutors' purported 24-count of indictment were designed to settle old score by the cops and Manhattan District Attorney's Office as Ms. Jeilinek testified on those charges against me at my staged trial before the Court of Claims of Jill Konviser. But the e-mail evidence above was truly exculpatory because the Grand Jury rejected and dismissed Ms. Jeilinek's allegations against me after it was made known, and did so the Petit Jury - a Double Jeopardy constitutional violation. Ms. Jeilinek felt "dumped" as I was subjected to her aggravated harassment and stalking for over 3 years in the process. The NYPD-Captain's life-threatening e-mail states that:

"...I will have my 'people' wrap your balls around your neck & hang you naked upside down over the Hudson River wearing cement shoes... I will [harass] you & haunt you & hunt you. I will make your life/business a PERFECT NIGHTMARE. YOU ARE A MOTHER FUCKER PSYCHO & I WILL HAVE YOU BEG FOR MERCY IF YOU DONT RETURN IT TO MY WIFE ASAP!!!!!!"

(See Doc. No. 45, Page 31-71)(Dkt. No. 49, Doc. 4, Page 19)(Attached as Exhibit B).

(11) I was not aware that Ms. Jeilinek was married, let alone to a cop. The jealous NYPD-Captain wanted me to return the gift-scarf mentioned in the life-threatening e-mail to me, which was received during our 3 months romantique affaire, and not because I had somehow committed alleged "Criminal Sexual Acts and Sexual Abuses" on Ms. Jeilinek, to be prosecuted at trial. T.A.'s alleged rape in the first degree, was a set-up designed to drag me to trial and be subjected to Ms. Jeilinek's perjured testimony on stand, and be attacked on cross examination by the malicious prosecutors without a defense counsel to challenge the Double Jeopardy trumped-up charges as the Court-appointed Counsel Glenn F. Hardy was in a total collusion with the prosecution to have me railroaded. The Grand Jury was aware of the e-mail evidence materials as a set-up, and voted to dismiss the whole purported 24-count against me. And yet Magistrate Judge Parker referred to Ms. Jeilinek's dismissed allegations by the Grand Jury as "according to Petitioner" in her inaccurate Report and Recommendation, and not according to the Grand Jury or to state criminal court evidence materials in the record.

(12) Magistrate Judge Parker brushed-off my compelling claims in the matter of Ms. Jeilinek, because the Grand Jury dismissed the allegations against me, and that the prosecutors conspired with police and my Court-Appointed Counsel Hardy, to drag me to trial to be convicted of alleged rape in the first degree, aggravated harassment and stalking, whose counts were all dismissed by the Grand Jury, on August 16, 2010, and also dismissed by my trial Judge Carol Berkman, on October 5, 2011.

(13) Magistrate Judge Parker's Failures to Condemn Misconduct
By Police, Prosecutors, Judges, and Court-Appointed Counsels

. The prosecutors, police and Court-Appointed Counsel Hardy, conspired to have me re-arrested and booked on the dismissed Grand Jury 23 counts, on October 25, 2010 and December 20, 2010, in order to forge a "Grand Jury True Bill of Indictment on a 24-count," signed by New York County District Attorney Cyrus R. Vance Jr. as the "Foreperson," and another un-signed, stampless and numberless 24-count of indictment known to be also a forgery;

. And that the Grand Jury dismissed the prosecutors' 24 trumped-up counts;

. And that the People's True Bill(s) of Indictment checkmarked on a 4-count and signed by New York County District Attorney Cyrus R. Vance Jr. as the Foreman, was a forgery;

. And that both the Grand Jury and trial Judge Carol Berkman, dismissed the prosecutors' 24-count on August 16, 2010, and on October 5, 2011;

. And that Court of Claims Judge Jill Konviser lacked subject matter jurisdiction to interfere in my dismissed criminal case to have me dragged to trial, to be subjected to lack of due process, humiliation, prejudice, violation of state and federal laws and arbitrary convictions of heinous Double Jeopardy charges of alleged rape in the first degree, aggravated harassment and stalking, with dismissed trumped-up counts of "indictments" and a missing alleged star-witness of "rape victim T.A." who was no-show at trial.

(14) Magistrate Judge Parker's Failure to Recognize me
As a Legitimate Professional Foreign Journalist

.. Despite compelling and irrefutable evidence materials from the state criminal court record, Press Identifications from the New York Police Department, the United Nations, the United States Gallery & TV-Radio, the State Department and the United States Congress, and my Orbite TV Show on International Affairs, Magistrate Judge Parker referred me as I "claims to be a journalist" and that I "lived a colorful life" in her trumped-up Report and Recommendation designed to deny truthful information to the American people, that I was truly a professional freelance French TV journalist and a foreign news correspondent to the United States since 1994, and that I was a victim of racism, false accusations dismissed by the Grand Jury, and arbitrary convictions of alleged crimes I did not commit, and slandered with fraudulent court documents by the prosecutors.

(15) Magistrate Judge Parker's Inaccurate Report &
Recommendation on my Habeas Corpus And Premature
Opinion And Order on my Subpoena Prompted The
Board of Immigration Appeals to Deny Continuance

Following Immigration Judge Roger F. Sagerman's denial of my Motion for Continuance, pending the Federal Court's decision on my Habeas Corpus, I filed a Motion for Stay with the Board of Immigration Appeals. But on January 24, 2019, a judge, not a review by a panel of three Board members as requested, denied me Continuance, citing that:

"We take administrative notice, moreover, that on December 7, 2018, a United States Magistrate Judge issued a recommendation that the [respondent's] petition for a writ of habeas corpus concerning the 2011 conviction be dismissed in its entirety. See 8 C.F.R. §1003.1 (d)(3)(iv); Akassy v. Kirkpatrick, No. 1:16-cv-7201(S.D.N.Y. Dec. 7, 2018). This was after the Magistrate Judge thoroughly considered, and then rejected, the respondent's assertions that his conviction 'was the result of a conspiracy among police, prosecutors, judges, his attorneys, and court staff; that his attorneys were incompetent; and that his constitutional rights were violated in numerous ways."

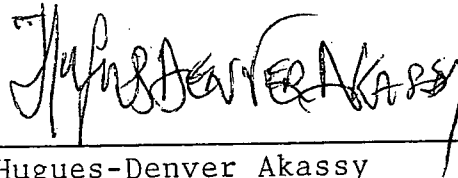
(16) Magistrate Judge Parker published her Opinion and Order on January 8, 2019, whose Motion for Subpoena was not addressed to her, but to the Honorable District Judge Loretta A. Preska, who has not yet made her final decision neither on my Subpoena or on my Writ of Habeas Corpus.

(17) Following the Board of Immigration Appeals' decision, I filed a Motion for Continuance, and for a Stay, with the United States Court of Appeals.

Accordingly, Pursuant to Federal Code Annotated 28 U.S.C.A. § 636(A)(C), Jurisdiction, Powers and Temporary Assignment, citing that "a judge of the Court may reconsider any partial matter under subparagraph (A) where it has been shown that the Magistrate Judge's order is clearly erroneous or [contrary] to law," I respectfully ask this Court to remove Magistrate Judge Parker from my case.

I thank you, Your Honor, for your consideration, and I pray and trust that this Court will construe this pro se submission in accord with its intention or correct any technical or procedural deficiencies for a swift justice.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner, Pro Se
DIN #: 11 A 5580
Clinton Corr. Facility
P.O. BOX 2001
Dannemora, New York 12929

SWORN TO BEFORE ME

This 31st day of January, 2019

cc: Pro Se Intake Unit
United States District Court
Southern District of New York

Office of the Attorney General
State of New York
120 Broadway
New York, N.Y. 10271-0332



NOTARY PUBLIC

JOHN ANDREW FARRELL
Notary Public, State of New York
No. 01FA6381949
Qualified in Clinton County
Commission Expires 10/15/20 22

APPENDIX N

ATTACHMENT

APPENDIX N-1

ATTACHMENT

Troy, Jessica

From: hda@orbitetv.org
Sent: Saturday, December 22, 2007 2:08 PM
To: nypdcaptain12@aol.com
Subject: Re:

FUCK YOU, you IMBECILE! Do you really think that you can intimidate me, you MOTHERFUCKER! You got the wrong target here, PAPY! Your "wife" asked her scarf to be mailed which I did 3 days ago so what's her FUCK'N point to keep bothering me for!?

[REDACTED]

[REDACTED] I am forwarding your threaten email to the Federal Bureau of Investigation in Washington, DC.

PS: You have no longer access to me, get lost!

Sent via BlackBerry from T-Mobile

-----Original Message-----

From: nypdcaptain12@aol.com

Date: Sat, 22 Dec 2007 12:26:06

To: hda@orbitetv.org

Subject:

You did not block this email !!!!! My wife got a Text message from you last night. At almost 1pm.

I know you know who I am ...I believe you call me "Tony".

Mr Akassy, "Tony" is a Teddy Bear compared to me !!!!!!!!!!!!!

I was advised that you saw my picture therefore I know you have seen my size !!!!!!!!!

79

As a retired Captain with NYPD; I was looking forward to AVOIDING scum bags like you but you give me no choice. !!!!!!!!! You dont want to make me angry. I have dealt with lots of GARBAGE in my 20 years.....it would be ugly , trust me !!!!!!!

She waited long enough for her stuff & if you dont return it within a week , well I will have my "people" wrap your balls around your neck & hang you naked upside down over the Hudson River wearing cement shoes.

I know what you look like & can put an "APB" on your ASS

Mr Akassy, do NOT MESS with ME !!!!!!!!!!!!!!!

The only reason I am even giving you the opportunity to return it & not get you myself because its the Holiday's & I wouldnt want to upset your Mom in Cote D'Ivoire.

(I understand you had another confrontation with another married woman's husband last week)

Is this a pattern of yours ,lurking around Central Park picking up married women?
How did Jacqueline feel throughout all of this

I will harasss you & haunt you & hunt you.

I will make your life / Business a PERFECT NIGHTMARE.YOU ARE A MOTHER FUCKEN PSYCHO & I WILL HAVE YOU BEG FOR MERCY IF YOU DONT RETURN IT TO MY WIFE ASAP!!!!!!.

More new features than ever. Check out the new AOL Mail
<<http://o.aolcdn.com/cdn.webmail.aol.com/mailtour/aol/en-us/text.htm?ncid=aolcmp00050000000003>> !



000010

APPENDIX

N-2

ATTACHMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
HUGUES-DENVER AKASSY,

Petitioner,

- against -

MICHAEL KIRKPATRICK,

Respondent.
----- x

16-CV-7201 (LAP) (AJP)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the undersigned appears on behalf of respondent. All papers are to be served upon counsel at the address indicated below.

Dated: New York, New York
November 21, 2016

/s/ Margaret A. Cieprisz
MARGARET A. CIEPRISZ (MC-2563)
Volunteer Assistant Attorney General
120 Broadway
New York, New York 10271
Margaret.Cieprisz@ag.ny.gov
(212) 416-8620



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

BARBARA D. UNDERWOOD
SOLICITOR GENERAL

CRIMINAL APPEALS AND
HABEAS CORPUS BUREAU
Direct Line: 212-416-8846

November 21, 2016

By Electronic Filing

Hon. Andrew J. Peck
United States Magistrate Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Akassy v. Kirkpatrick,
16-CV-7201 (LAP) (AJP)

Dear Judge Peck:

I represent the respondent in this habeas corpus matter pursuant to 28 U.S.C. § 2254. I write respectfully to request a 45-day extension of time within which to answer the petition, to January 13, 2017.

By order dated September 30, 2016, the Court had directed respondent to file a response to the petition within 60 days, by November 29, 2016. I will be unable to complete the response in this matter in a timely manner for several reasons. Although requested, we have not yet received the trial transcript for the underlying state court matter. In addition, the state court documents that we have received, including three C.P.L. § 440 motions, and petitioner's appendix are voluminous and will take additional time to analyze. I am also requesting the additional time because I also have two habeas corpus responses due in mid-December. I therefore respectfully request a 45-day extension, to January 13, 2017.

This is respondent's first extension request. I have not contacted Mr. Akassy to determine his position on this request because he is incarcerated and proceeding *pro se*.

Thank you very much for your consideration.

Respectfully Submitted,

/s/ Margaret A. Cieprisz

Margaret A. Cieprisz (MC2563)

Volunteer Assistant Attorney General

Margaret.Cieprisz @ag.ny.gov

(212) 416-8620

cc: Hugues-Denver Akassy
DIN #: 11-A-5580
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

APPENDIX

N-3

ATTACHMENT

November 15, 2018

Honorable Loretta A. Preska
United States District Judge
United States District Court
Southern District of New York
U.S. Courthouse
500 Pearl Street
New York, N.Y. 10007-1312

WRIT OF HABEAS CORPUS § 2254

RE: Requesting an Emergency Hearing to be Released from False Imprisonment Because the State Criminal Court Record Truly Reveals that Both Grand Jury and Trial Judge Carol Berkman Dismissed the People's Trumped-up Case of Rape in the First Degree and the Forged True Bill on a 24-count, And that Court of Claims Judge Jill Konviser Lacked Subject Matter Jurisdiction to Interfere in the Criminal Case to Cover-up Police and Prosecutorial Misconduct and Court-Appointed Counsels' Criminal Acts Designed to Secure Convictions, in the Matter of Akassy v. Kirkpatrick, No. 16-CV-7201(LAP)(KHP)

Honorable District Judge Preska:

I respectfully write under penalties of perjury to request an Emergency Hearing to be released from prison because my current incarceration in the State of New York is illegal and violates my Civil Rights as a black man, and violates my 5th, 6th and 14th Amendments under the Constitution of the United States of America.

As the state criminal court record submitted in this Habeas Corpus Court reveals, the Grand Jury and trial Judge Carol Berkman dismissed the People's trumped-up case of rape in the first degree with the forged true bill of indictment on a 24-count, and that Judge Jill Konviser was not the assigned trial judge on my case, therefore, lacked subject matter jurisdiction to abuse her position as a Court of Claims judge to interfere in a dismissed criminal case in order to cover-up serious misconduct by the New York Police Department, Manhattan District Attorney's Office and Court-Appointed Counsels.

For 2 days, I proceeded pro se to testify before the Grand Jury in response to the prosecutors' trumped-up charges of rape in the first degree and sexual abuse against me - with regard to my 45-year-old Russian-date T.A. As the Grand Jury voted to acquit me on all charges, and that the prosecutors' alleged "rape victim" jumped on the plane to disappear without a trace back home to Russia, to be no show in New York for trial, to save faces in the court of public opinion, the prosecutors, Assistant District Attorneys Jessica Troy and Emily Auletta, falsified my exculpatory Grand Jury True Bill on a 4-count (rape in the first degree (1), and aggravated harassment (3)) to have it signed by their boss New York County District Attorney Cyrus R. Vance Jr. as the Grand Jury's Foreman and not by the Grand Jury's; and contrived to use New York State Tax Payers'

money to bribe my imposed-ethicless-court-appointed counsels Howard David Simmons and Glenn F. Hardy, to remain silent whose legal representations I never sought for, but to shut me up to have me dragged to trial with a forged bill of indictment and a missing star witness of alleged rape in the first degree, to be railroaded and convicted of heinous crimes I did not commit.

In so doing, the D.A.'s Office contrived to have its trumped-up criminal case against me removed from a male judge to a new judge, Judge Carol Berkman, to shy away from addressing the prosecutors' forged bill of indictment. But as I challenged trial Judge Berkman for denying me "due process" in a pre-trial court stenographic transcript minutes record (see attached as Exhibit A)(see also, Akassy Decl. Ex.6) dated September 7, 2011, the prosecutor, after several months of delay-tactics in collusion with my pseudo-court-appointed counsel Glenn F. Hardy, to un-successfully attempt to coerce me to take a 5-year plea-deal, told the court that their alleged rape victim "is out of the country, we have discussed [October 5], if that is a date that's acceptable to the Court, we do expect to be ready on that day," A.D.A. Troy affirmed it. But that was a blatant lie to the court because the People had no alleged rape victim to produce for trial. And the court agreed with the People to make its final date to produce the alleged rape victim for trial on October 5th, see transcript minutes excerpt copies:

(a) As the transcript minutes show, "Honorable Carol Berkman, Justice of the Supreme Court" was the solely official trial judge on my case, and not the Court of Claims Judge Jill Konviser, from Court Part 96;

(b) As the transcript minutes show, my alleged criminal case of rape in the first degree (the charges of sexual abuse and aggravated harassment were omitted to be concealed) was held in Judge Berkman's "Court Part 71" and not in the Court of Claims of Judge Jill Konviser Part 96;

(c) As the transcript minutes show, the alleged criminal charge against me before trial Judge Berkman, was the trumped-up count of "rape1" and not on a 24-count as also indicated in the rap-sheet of the State of New York Division of Criminal Justice Services, which was submitted as compelling evidence materials in support of Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 by a Person in State Custody, (Dkt. Nos. 55, 59). It is crystal clear that the evidence shows that there was no indictment of me on a 24-count.

When the prosecutors failed once again to produce their alleged star witness of "rape victim" on October 5th, 2011, to start trial, Judge Berkman was compelled to dismiss the People's trumped-up charge of rape in the first degree, including the whole forged true bill of indictment on a 4-count. Which means that on that day of October 5th, 2011, I was fully exonerated to walk out from the Manhattan Criminal Courthouse as a free innocent black man and journalist wrongly accused.

But on that day of October 5th, 2011, my ethicless pseudo-court-appointed counsel Mr. Hardy, having accepted several pay-checks from the New York County Criminal Court System, to have me burried, conspired with the prosecutors to leave me inside of the Courthouse's waiting cell-pen to appear alone with the prosecutors in my Court Appearance before Judge Berkman, in order to deny me access of information about the dismissal of my trumped-up criminal case of rape in the first degree, including the whole forged true bill of indictment on a 4-count, and proceeded with the malicious prosecutors to change venue by moving my dismissed-rape-case from Judge Berkman's Court Part 71, to Court Part 96, before their former Assistant District Attorney, Judge Jill Konviser who is a Court of Claims judge, to re-trial my alleged "rape case" without due diligence and due process, whose trial started on October 6, 2011. (See state biography and an exposé by The New York Times, attached as Exhibit B).¹

Attached as Exhibit C, are the requests of my transcript minutes made for 10/5/11, ~~10/6/11~~, 10/7/11 and 10/11/11, which were never sent to me (excepted 9/7/11 transcript minutes Id) by the corrupt Office of the Appellate Defender of Richard M. Greenberg, as my Court-Appointed Appellate Counsels to sabotage my Direct Appeal and obfuscate the truth about the dismissal of the D.A.'s Office's trumped-up case of rape in the first degree and 24 trumped-up counts, in order to have my wrongful convictions affirmed and be subjected to deportation on Immigration Law violation, and case closed.

On that day of October 5th, 2011, Judge Berkman did not bother to order the Court Police Officers to have me produced to her Court Part 71, to be aware of any decisions made about the dismissal of my case, and why my case ended up without warning before the Court of Claims Judge Konviser to act as an appellate court to re-trial my dismissed case. A Double Jeopardy constitutional violation.

Manhattan District Attorney's Office's trumped-up criminal case against me has less to do with justice than a controlled ambush to have me destroyed in star chambers and in the court of public opinion in coordination with some local news media organizations.

Judge Konviser was fully aware that the prosecutors' true bill of indictment on a 24-count was fabricated and a forgery, and her decision on my C.P.L. § 440.10 to vacate judgment of wrongful convictions was unwarranted because she lacked subject matter jurisdiction. The 20-page decision to deny my C.P.L. § 440.10 was a pile of lies designed to cover-up police misconduct, prosecutorial

¹ An article by Jim Dwyer of The New York Times, "A False Conviction Is Overturned, but the System That Allowed It Remains," appears to expose the rampant culture of prosecutorial and judiciary misconduct designed to use falsified court documents to win wrongful convictions of minority indigent defendant black men in the New York State Criminal Court as similar to Manhattan D.A.'s Office's trumped-up alleged rape case on a 24-count against me.

and judiciary misconduct, and Court-Appointed Counsels' criminal acts.

Manhattan District Attorney Cyrus R. Vance Jr. and his Chief of Sex Crime and Supervising Prosecutor Assistant District Attorney Martha Bashord, and his leading prosecutors Assistant District Attorneys Jessica Troy and Emily Auletta, and his trial preparation Assistant Ivette Sanchez, Appeal Division Assistant District Attorney Gina Mignola, and Press Contact Erin Duggan, and my corrupt pseudo-Court-Appointed Counsels Howard David Simmons and Glenn F. Hardy, trial Judge Carol Berkman, and Court of Claims Judge Jill Konviser, who happened to be a former Assistant District Attorney from the Manhattan District Attorney's Office, willfully committed criminal conspiracy to commit forgery, fraud, lies and perjury, to have me illegally and unfairly tried, humiliated, railroaded in kangaroo-courts and wrongly convicted of rape in the first degree, aggravated harassment and stalking, with a bill of indictment that was truly known to be a forgery, and proceeded to use state resources to cover-up their unprecedented ethics violation and serious misconduct, and conspired with some news media as attack-dogs to impinge my constitutional Civil Rights as a foreign black man journalist.

New York State judges from the Appellate Division, First Department, to New York State Court of Appeals, have all shied away from my claims of prosecutorial and judiciary misconduct and Court-Appointed Counsels' criminal acts, to adopt a code of silence about the forged and deceptive purported "People's True Bill of Indictment No. 03884/2010, on a 24-count," which was concocted by Manhattan District Attorney Cyrus R. Vance Jr. himself.

Mr. Vance Jr. is a schemer and a racist with no moral principle whose thirst for power and conviction at all cost have no boundries. A total lack of leadership. It was a deliberate systematic act of non-compliance of due process under the 5th and 14th Amendments of the United States of America Constitution. They claim to know the law, but by their deeds they deny it. They have absolutely no respect for human (civil) rights and dignity. As clearly stated in Swartz v. State, 506 N.W. 2d 792, (1993):

"The use of perjury as a weapon, whether active or passive, and whether by prosecution or defense, must be severely condemned."

And in Sanders v. Sullivan, 1988, 863 F. 2d 218, the United States Court of Appeals for the Second Circuit, held that:

"Due process violation occurs if state leaves conviction in place after credible recantation of material testimony; perjured testimony that will trigger due process violation must leave court with firm belief that, but for perjured testimony defendant would most likely not have been convicted."

The United States Supreme Court held that:

"The AEDPA Federal Habeas Corpus reversal standard of 'unreasonable application' is met if a state court decision resulted in an outcome that cannot reasonably be justified under existing precedent (Brown v. Payton, 544 U.S. 1045, 125 S. Ct. 2248, 161 L. Ed. 2d 1082 (2005)), a state court decision is contrary to Supreme Court clearly established precedent if it applies a rule that contradicts the Court's precedent or if it confronts a set of materially indistinguishable facts and reaches a different result. A state court decision involves an unreasonable application of the Court's clearly established precedents if the state court applies the precedent to the facts in an objectively unreasonable manner."

"Fair trial in fair tribunal is basic requirement of due process."
See, U.S.C.A. Constitution 14th Amendment;

"Even when [judge] does not have direct, personal, substantial, pecuniary interest in case, of kind requiring his or her disqualification at common law, there are circumstances in which probability of actual bias on part of judge is too high to be constitutionally tolerable." Ibid.

Bias in the instant case is so noticeable that public interest is at stake because a foreign black journalist I am, was falsely arrested on trumped-up charges by the New York Police Department, for having one relation romantique with a then-50-year-old white Jewish woman, Orly Jeilinek, who happened to be married to a white Jewish NYPD-Captain, wrongly convicted of heinous sex crimes whose Grand Jury True Bill of Indictment was truly known to be a forgery, and falsely imprisoned for years to be subjected to physical assaults and torture by the State of New York's prison guards, as my Medical Record shows, and misrepresented in the Manhattan District Attorney's Office's Press Release as a "convicted criminal." Even my noble profession as a legitimate journalist for the past 24 years was smeared and mischaracterized in the court of public opinion in order to obfuscate the whole truth about the D.A.'s Office's forged bill of indictment designed to have me wrongly convicted as a black man. The making of a black decent man criminal. I am an innocent black man.

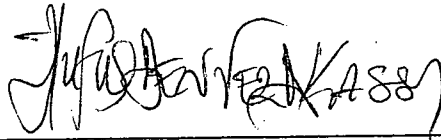
"In deciding whether probability of actual bias on part of [judge] is too high to be constitutionally tolerable, court's inquiry is objective one, that asks not whether judge is actually, subjectively biased, but whether average judge in judge's position is likely to be neutral, or whether there is unconstitutional potential for bias." Ibid.

In the instant case the objectionable bias of Court of Claims Judge Konviser is crystal clear favoring Manhattan District Attorney's Office and its malicious prosecutors and Court-Appointed Counsels and police, to cover-up their criminal acts as Judge Konviser herself lacked subject matter jurisdiction on the People's trumped-up criminal case against me. I was set-up and framed to be wrongly convicted, and subjected to racial-bias, bigotry and racism at its best. It was prejudicial at all levels.

Because my life is in a clear and present danger for each day, minute and second in New York State prison, and that the People's alleged criminal case of rape in the first degree, aggravated harassment and stalking, was based on fabrications, fraud, forgery, lies, perjuries, and dismissed on the 5th day of October, 2011, in trial Judge Berkman's Court Part 71, and dismissed by the Grand Jury on August 16, 2010, as the Grand Jury's exculpatory true bill was falsified by the prosecutors, and that Court of Claims Judge Konviser lacked subject matter jurisdiction to abuse her authority to re-try my case in order to cover-up serious misconduct and criminal acts, I respectfully ask, Your Honor, to grant an emergency hearing for my immediate release from incarceration.

I thank you, Your Honor, for your consideration in this urgent matter.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner, Pro Se
DIN #: 11 A 5580
Clinton Corr. Facility
P.O. BOX 2001
Dannemora, New York 12929

cc: Honorable Katharine H. Parker
U.S. Magistrate Judge

Office of the Attorney General
State of New York
120 Broadway
New York, N.Y. 10271

EXHIBIT “A”

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK - CRIMINAL TERM - PART: 71

3 - - - - - X

4 THE PEOPLE OF THE STATE OF NEW YORK,

Indict. No.
3884/2010

5
6 -against-

7 HUGUES AKASSY,
8
9 DEFENDANT.

CHARGE

RAPE1

CALENDAR CALL

10 - - - - - X

11 100 Centre Street
12 New York, New York 10013
13 September 7, 2011

14 B E F O R E:

15 HONORABLE CAROL BERKMAN,
16 JUSTICE OF THE SUPREME COURT

17 A P P E A R A N C E S:

18 FOR THE PEOPLE:
19 CYRUS R. VANCE, JR., ESQ.
20 DISTRICT ATTORNEY, NEW YORK COUNTY
21 One Hogan Place
22 New York, New York 10013
23 BY: JESSICA TROY, ESQ.
24 Assistant District Attorney

25 GLENN HARDY, ESQ.
Attorney for the Defendant

Proceedings

1 THE CLERK: Calling calendar number 12, Hugues
2 Akassy.

3 MR. HARDY: Glenn Hardy for Mr. Akassy.

4 Good afternoon.

5 MS. TROY: For the People, Jessica Troy, T-R-O-Y.

6 Good afternoon.

7 THE COURT: Good afternoon.

8 Are the People ready?

9 MS. TROY: Your Honor, we are not ready today.
10 One of our necessary witnesses is out of the country.

11 We have discussed October 5, if that is a date
12 that's acceptable to the Court. We do expect to be ready
13 on that day.

14 THE COURT: October 5th.

15 THE DEFENDANT: Your Honor, can I say something?

16 THE COURT: Yes, sir.

17 MR. HARDY: Judge, if I may, before we stopped, I
18 have advised my client not to speak directly to the Court.

19 THE COURT: I have also repeatedly --

20 MR. HARDY: But he feels he must.

21 THE DEFENDANT: May I address the Court?

22 THE COURT: Yes, sir.

23 THE DEFENDANT: Your Honor, I believe that I have
24 not been offered a fair due process with the Court which is
25 in violation of my state and federal constitutional right

Gerri Seltzer

Senior Court Reporter

EXHIBIT “B”

OAD | OFFICE OF THE APPELLATE DEFENDER

11 Park Place, Suite 1601, New York, NY 10007 | Tel. 212 402 4100 | Fax 212 402 4199

www.appellatedefender.org

FAX TRANSMISSION

TO: Leslie Greaves, Head Court Reporter
100 Centre Street
646-386-4400 (Main Office Number)
212-374-3133 (FAX)

FROM: Rahul Sharma
212-402-4128 (direct line)

DATE: May 1, 2013

RE: People v. Akassy, Ind. No. 3884-2010

I am writing to request minutes in the above-referenced Manhattan case. The details are as follows:

Date:	Judge:	Part:	Court Reporter:
9/7/11	Berkman	71	Seltzer
10/5/11	Berkman	71	Berkowitz
10/6/11	Konviser	96	Magniccari
10/7/11	Konviser	96	Tauber/Magniccari
10/11/11	Konviser	96	Seltzer

Our office is a public defender funded by City Tax dollars. Therefore, please charge us the public dollar rate under § 108.2(b) (ii) for regular delivery.

Please contact me when the minutes are ready. If you have any questions feel free to give me a call at 212-402-4128.

Thank you.

Number of pages (including this page): 1

=====
If you have problems receiving this transmission, please contact us at (212) 402-4100.

Confidentiality Note:

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the addressee named above. If the reader of this message is not the recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. We will reimburse any costs you incur in notifying us and returning the message to us. Thank you.

EXHIBIT "C"

Jill Konviser—Cont'd

Honors and Awards: Recipient, Empire State Mock Trial Judicial Award, 2011; Honoree, Outstanding Women of the Bar, N.Y. County Lawyers Assn., 2004; Legislative Award, N.Y. State District Attorneys Assn., 2003; Legislative Award, Downstate Coalition for Crime Victims, 2002; Legislative Award, Empire State Pride Agenda, 2001

Jill Konviser
Judge, Court of Claims
& Acting Justice, Supreme Court, 1st Jud. Dist.
 100 Centre St., N.Y.C. 10013
 (646) 386-4411; Fax: (212) 457-2876

Year of Current Appointment: 2005

Year of Admission to the Bar: 1990

Law School: Benjamin N. Cardozo School of Law, 1990

Other Education: S.U.N.Y. at Binghamton, B.A., 1985,
 History & Business Mgmt; with honors

Previous Legal Employment: (1990-95) Asst. D.A., New
 York County; (1995-97) Manager, Forensic and
 Investigative Services, KPMG Peat Marwick, L.L.P.;
 (1997) General Counsel & Deputy Inspector General,
 Metropolitan Transportation Authority; (1997-2002)
 Senior Asst. Counsel, Office of the Governor; (2002-05)
 Inspector General, State of N.Y.

Teaching Positions: Former Associate Professor, Fordham
 Law School; (1992-Present) Faculty, Benjamin N.
 Cardozo School of Law (Intensive Trial Advocacy
 Program, Women in Law and on the Bench); (1996)
 Faculty, Univ. of Michigan Law School/Institute for Legal
 Education (Criminal Law/Trial Advocacy); (1997-99)
 Lecturer, Pace Univ. School of Law Criminal and Civil
 Advocacy; (2002-05) Adjunct Faculty, Fordham Univ.
 School of Law (Fundamental Lawyering Skills); (2015)
 Lecturer, Brooklyn Law School (Eyewitness
 Identification and Wrongful Convictions)

Court-Related Activities: (2006-10) Member, N.Y. State
 Commission on Judicial Conduct; (2015-Present)
 Member, Advisory Committee on Criminal Law and
 Procedure

Academic Honors: Samuel Belkin Scholar; Lewis F. Powell
 Award for Excellence in Trial Advocacy; Texas Young
 Lawyers Award for Outstanding Lawyering Skills; Natl.
 Tournament of Champions Advocacy Award

A False Conviction Is Overturned, but the System That Allowed It Remains

Here is the case of a missing paragraph that turned into a trap door that dropped a man into prison.

The paragraph vanished from a police report in a Brooklyn criminal

case, but essential information has been hidden from people accused of crimes in courthouses across the country. Even though failing to share exculpatory

information is among the most serious breaches of ethics and law for the police and prosecutors, there is little personal or institutional accountability for such tactics.

In 2010, to convict a man named Wayne Martin of killing two people during a pickup of a Brooklyn tire repair shop, someone in law enforcement went to the trouble of blanking out a paragraph in a homicide report.

The erased portion said that a witness had identified someone other than Mr. Martin as the gunman.

In a subsequent report, another witness also told detectives that it was not Mr. Martin who had done the shooting.

Neither of these two reports made it into the hands of Mr. Martin or his defense lawyers before he was tried. Convicted of the double homicide, he was sentenced to life without parole.

Email: dwyer@nytimes.com
Twitter: @jimdwyrny



Exculpatory evidence wasn't given to the defense in the murder trials of Michael Morton, above right, with his lawyer after his charges were dismissed in 2011, and Wayne Martin.

On Wednesday, Ken Thompson, the Brooklyn district attorney, moved to dismiss all charges against Mr. Martin, as The Daily News reported. Prodded by Mr. Martin's own legal filings from prison, and by his lawyer, James D. Henning, the district attorney's office had dug into the case files and found the two documents.

Anyone who followed the fictional HBO series "The Night Of" saw a prosecutor in a murder trial deciding not to let a defense lawyer know that a new



suspect had emerged. This week alone, Mr. Martin's case was one of at least two to appear in New York City courts that had been built on withholding exculpatory evidence.

In a 1963 ruling, the United States Supreme Court said that people being tried on criminal charges had an absolute right to that information. That case, *Brady v. Maryland*, held that information "material" to questions of guilt or punishment must be shared

with the defense, a standard that was not as straightforward as it seemed.

"The materiality test that Brady sets up is poorly designed," said James B. Doyle, a lawyer who has written frequently on miscarriages of justice and what he sees as a misplaced focus on blaming a single person or cause for them.

The Brady test relies on individual prosecutors to make a decision — out of sight of anyone else — about whether a piece of information is "material" to the trial. This is like asking baseball pitchers to call balls and strikes, or tennis players to decide if their own serves were in. Mr. Doyle said that prosecutors may have honorable intentions that are eroded by subtle pressures to win trials, excessive fear of losing them or zeal to cinch cases against defendants they are convinced are bad.

Judges, many of them alumni of prosecutors' offices, rarely take their former colleagues to task; similarly, disciplinary committees for lawyers almost never issue public punishment.

"Brady violations go to the heart of our criminal justice system," Joel B. Rudin, a New York lawyer, said. "Jurors can't do their job properly without all information bearing on guilt or innocence or the credibility of witnesses."

Mr. Rudin, through civil litigation and criminal defense, has uncovered long lists of cases in which exculpatory information was withheld, but in which

no prosecutor was punished.

Perhaps the most famous exception to such institutional indifference involved the prosecution of Michael Morton in Texas for the murder of his wife, Mr. Morton, who was given a life sentence, was definitively innocent, but the prosecutor covered up information showing that. The prosecutor was sentenced to nine days in jail for his misconduct, a virtually unheard-of punishment. He also was disbarred.

Since taking over as district attorney in Brooklyn in 2014, Mr. Thompson has asked courts to reverse convictions and dismiss charges in 21 cases, including Mr. Martin's this week. "A prosecutor engaged in intentional misconduct faces immediate reprimand, including termination," Charisma Troiano, a spokeswoman for Mr. Thompson, said. An internal ethics committee also reviews them, she said.

The prosecutor in Mr. Martin's case quit in June and did not respond to a request to explain why those materials were not turned over to the defense.

After Mr. Martin was convicted of the double homicide, the prosecutor argued that if he were not given the harshest sentence possible, there would be more victims.

There were indeed more, but Mr. Martin had nothing to do with them. At least two other people were killed by the men named as the gunmen at the tire store.

APPENDIX

N-4

ATTACHMENT

July 7, 2017

The Honorable Katharine H. Parker
United States Magistrate Judge
United States District Court
Southern District of New York
U.S. Courthouse
500 Pearl Street
New York, N.Y. 10007-1312

RE: Letter-as-Motion Seeking Permission to Amend Court Evidence
Akassy v. Kirkpatrick; No. 16-CV-7201(LAP)(KHP)

Honorable Judge Parker:

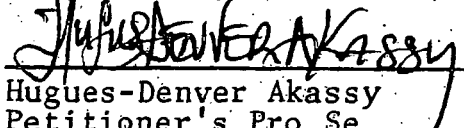
I, Hugues-Denver Akassy, the Petitioner in this captioned case, make this letter-as-motion to Amend a Court Record under penalties of perjury.

The Rap-Sheet of the State of New York Division of Criminal Justice Services (DCJS) (see attached as Exhibit A), reveals that I was only indicted on 1 single count of alleged Rape in the First Degree and not on 23 counts in addition; which means that the 3 counts of alleged Aggravated Harassment added upon my Grand Jury True Bill of Indictment No. 03884/2010, signed by the Foreman and stamped by the Court, were fabricated by the prosecutors in the process. I was arraigned on only 1 count on Sept. 15, 2010.

The Rap-Sheet indicates that the previous charge against me in the matter of Melissa Oaks No. 2009NY034165, was Harassment in the First (NCIC 7099) and downgraded to Violation (NCIC 7099) and dismissed by trial Judge Frank P. Nervo, on May 21, 2010. But the prosecutors had the Court Record rejiggered to maliciously add a charge of Aggravated Harassment in order to have the case transferred to the Grand Jury lumped together in the matter of T.A. Indictment No. 03884/2010.

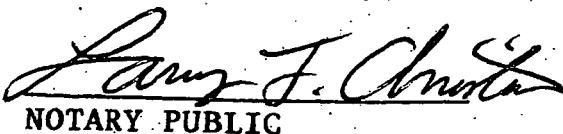
The Rap-Sheet also indicates that the prosecutors and police colluded to have me booked on the 23 dismissed counts by the Grand Jury on October 25, 2010 and December 20, 2010.

Respectfully submitted,


Hugues-Denver Akassy
Petitioner's Pro Se

DIN #: 11 A 5580
Clinton Correctional Facility
P.O. BOX 2001
Dannemora, N.Y. 12929

SWORN TO BEFORE ME
This 7th day of July, 2017


NOTARY PUBLIC

LARRY J CHRISTON
NOTARY PUBLIC, STATE OF NEW YORK
NO: 01CH6287138
QUALIFIED IN CLINTON COUNTY
COMMISSION EXPIRES 08/05/21

-- Sexual Abuse 1st Degree: Contact By Forcible Compulsion
 PL 130.65 Sub 01 Class D Felony Degree 1 NCIC 1117 ✓

No Court Reported Information

↓ Cycle 7 ↑
 Violent Felony Offense

Arrest/Charge Information

Arrest Date: July 27, 2010 10:52 pm (22:52:00)

Fax Number M42567
 Place of Arrest: NYCPD 20
 Arrest Type: Unknown
 Date of Crime: July 27, 2010
 Place of Crime: NYCPD 20
 Criminal Justice
 Tracking No.: 64323599Y
 Arresting Agency: NYCPD PCT 020
 Arresting Officer ID: 931793
 Arrest Number: M10666993
 Arrest Charges:

-- Rape-1st: Forcible Compulsion
 PL 130.35 Sub 01 Class B Felony Degree 1 NCIC 1103

Court Case Information

-- Court: New York County Criminal Court Case Number: 2010NY055835

July 28, 2010

Arraigned

-- Rape-1st: Forcible Compulsion
 PL 130.35 Sub 01 Class B Felony NCIC 1103 ✓
 -- Sexual Abuse 1st Degree: Contact By Forcible Compulsion
 PL 130.65 Sub 01 Counts: 3 Class D Felony NCIC 1117 ✓

July 28, 2010

Initial Report Of Docket Number

August 10, 2010

Transferred To Superior Court

-- Rape-1st: Forcible Compulsion
 PL 130.35 Sub 01 Class B Felony NCIC 1103 ✓
 -- Sexual Abuse 1st Degree: Contact By Forcible Compulsion
 PL 130.65 Sub 01 Counts: 3 Class D Felony NCIC 1117 ✓

-- Court: New York County Supreme Court Case Number: 03884-2010

September 15, 2010

Arraigned

-- Rape-1st: Forcible Compulsion
 PL 130.35 Sub 01 Class B Felony NCIC 1103 ✓

September 15, 2010

Initial Report Of Indictment Number

November 17, 2011

Convicted Upon Verdict After Jury Trial - Conviction date November 07, 2011

-- Rape-1st: Forcible Compulsion
 PL 130.35 Sub 01 Class B Felony NCIC 1103

1-3

Sentenced to: Term: 20 Year(s) Post Release Supervision Time: 5 Year(s) Sentence Date: November 17, 2011

- Agg Harassmnt-2: Communicate-Phone/Telegraph/Written Com To Annoy/Alarm
PL 240.30 Sub 01 Counts: 3 Class A Misdemeanor NCIC 5309 ✓

Sentenced to: Term: 1 Year(s) Sentence Date: November 17, 2011

- Stalking 3rd: Cause Person To Fear Injury/Sex Offense/Kidnapping/Death
PL 120.50 Sub 03 Counts: 2 Class A Misdemeanor NCIC 1316 ✓

Sentenced to: Term: 1 Year(s) Sentence Date: November 17, 2011

November 17, 2011

Dismissed

- Criminal Sexual Act-1st Degree: By Forcible Compulsion
PL 130.50 Sub 01 Class B Felony NCIC 1199 ✓
- Sexual Abuse 1st Degree: Contact By Forcible Compulsion
PL 130.65 Sub 01 Counts: 3 Class D Felony NCIC 1117 ✓
- Stalking 3rd: Cause Person To Fear Injury/Sex Offense/Kidnapping/Death
PL 120.50 Sub 03 Counts: 2 Class A Misdemeanor NCIC 1316 ✓
- Stalking 3rd: 3 Or More Persons On Separate Occasions- No Prior Conv
PL 120.50 Sub 01 Class A Misdemeanor NCIC 1316 ✓
- Criminal Possession Stolen Property-5th Degree
PL 165.40 Class A Misdemeanor NCIC 2804 ✓
- Petit Larceny
PL 155.25 Class A Misdemeanor NCIC 2399 ✓
- Stalking 4th: Cause Fear Of Threat To Employment Or Business
PL 120.45 Sub 03 Class B Misdemeanor NCIC 1316 ✓
- Stalking 4th: Cause Fear Of Material Harm To Health, Safety, or Property
PL 120.45 Sub 01 Counts: 4 Class B Misdemeanor NCIC 1316 ✓
- Stalking 4th: Cause Material Harm To Mental Or Emotional Health
PL 120.45 Sub 02 Counts: 3 Class B Misdemeanor NCIC 1316 ✓
- Criminal Trespass 3rd: Property Fenced in or Enclosed
PL 140.10 Sub 0A Class B Misdemeanor NCIC 5707 ✓

Interim release Status: Remanded without bail

Incarceration/Supervision Information

Incarceration Admission Information

Admission Date: December 16, 2011
Admission Reason: New Commitment
Agency: NYS DOCS Downstate Correctional Facility
State Inmate ID No.: 11A5580
Sentence to: Term: 20 Year(s)
Max Expiration Date: July 23, 2030
Conditional Release Date: July 23, 2030
Admission Charges:

- Rape-1st: Forcible Compulsion
PL 130.35 Sub 01 Class B Felony Degree 1 NCIC 1103

↓ Cycle 6 ↑

* Cycle may not be supported by fingerprints

Arrest/Charge Information

Arrest Date: July 25, 2010 11:56 pm (23:56:00)

Fax Number

M42184

2-3

Arrest Type: Unknown
Date of Crime: February 06, 2009
Place of Crime: NYCPD 20
Criminal Justice
Tracking No.: 63543874K
Arresting Agency: NYCPD PCT 020
Arresting Officer ID: 904925
Arrest Number: M09639273
Arrest Charges:

-- Aggravated Harrassment-2nd:Telephone
 PL 240.30 Sub 02 Class A Misdemeanor Degree 2 NCIC 5309 ✓

Court Case Information

-- Court: New York County Criminal Court Case Number: 2009NY034165

April 29, 2009

Arraigned

-- Agg Harassmnt-2:Communicate-Phone/Telegraph/Written Com To Annoy/Alarm
 PL 240.30 Sub 01A Class A Misdemeanor NCIC 5309 ✓
 -- Harassment-1st
 PL 240.25 Counts: 2 Class B Misdemeanor NCIC 7099 ✓
 -- Harassment-2nd Degree: Physical Contact
 PL 240.26 Sub 01 Violation NCIC 7099 ✓

April 29, 2009

Initial Report Of Docket Number

May 21, 2010

Adjourned In Contemplation Of Dismissal CPL170.55

August 31, 2010

Covered By Another Case

-- Agg Harassmnt-2:Communicate-Phone/Telegraph/Written Com To Annoy/Alarm
 PL 240.30 Sub 01A Class A Misdemeanor NCIC 5309 ✓
 -- Harassment-1st
 PL 240.25 Counts: 2 Class B Misdemeanor NCIC 7099
 -- Harassment-2nd Degree: Physical Contact
 PL 240.26 Sub 01 Violation NCIC 7099

August 31, 2010

Not Arraigned

-- Aggravated Harrassment-2nd:Telephone
 PL 240.30 Sub 02 Class A Misdemeanor NCIC 5309

Associated Case Number(s): 03884-2010

Associated Case Number(s): 03884-2010

3-3

Interim release Status: Released on own recognizance (ROR)

↓ Cycle 2 ↑

Domestic Incident Report Filed

* Cycle may not be supported by fingerprints

Arrest/Charge Information

Arrest Date: April 28, 2009 04:30 pm (16:30:00)

Fax Number M30908
Place of Arrest: NYCPD 20
Arrest Type: Unknown

-- Court: New York County Criminal Court Case Number: 2010NY092990

December 20, 2010

Arraigned

-- Criminal Trespass-2nd Degree
PL 140.15 Class A Misdemeanor NCIC 5707 ✓

December 20, 2010

Initial Report Of Docket Number

June 02, 2011

Dismissed, Failure To Provide Speedy Trial CPL30.30

-- Criminal Trespass-2nd Degree
PL 140.15 Class A Misdemeanor NCIC 5707 ✓

June 02, 2011

Not Arraigned

-- Burglary:Illegal Entry With Criminal Intent
PL 140.25 Sub 01 Class C Felony NCIC 2299

June 03, 2011

Sealed Upon Termination Of Criminal Action In Favor Of The Accused CPL160.50 ✓

↓ Cycle 15 ↑

Domestic Incident Report Filed

* Cycle may not be supported by fingerprints

Arrest/Charge Information

Arrest Date: December 20, 2010 10:50 am (10:50:00)

Fax Number: M70688
Place of Arrest: NYCPD 20
Arrest Type: Unknown
Date of Crime: April 12, 2009
Place of Crime: NYCPD 20
Criminal Justice
Tracking No.: 64575905Y
Arresting Agency: NYCPD PCT 020
Arresting Officer ID: 896654
Arrest Number: M10712254

Arrest Charges:

-- Criminal Possession Stolen Property-4th:Property Value Exceeds \$1000
PL 165.45 Sub 01 Class E Felony Degree 4 NCIC 2804 ✓
-- Grand Larceny 4th :Value Property Greater Than \$1000
PL 155.30 Sub 01 Class E Felony Degree 4 NCIC 2399 ✓

Court Case Information

-- Court: New York County Criminal Court Case Number: 2010NY092991

December 20, 2010

Arraigned

-- Grand Larceny 4th :Value Property Greater Than \$1000
PL 155.30 Sub 01 Class E Felony NCIC 2399 ✓

December 20, 2010

Initial Report Of Docket Number

June 20, 2011

Dismissed CPL160.50

-- Grand Larceny 4th : Value Property Greater Than \$1000
PL 155.30 Sub 01

Class E Felony NCIC 2399 ✓

June 20, 2011

Not Arraigned

-- Criminal Possession Stolen Property-4th: Property Value Exceeds \$1000
PL 165.45 Sub 01

Class E Felony NCIC 2804 ✓

June 21, 2011

Sealed Upon Termination Of Criminal Action In Favor Of The Accused CPL160.50 ✓

↓ Cycle 14 ↑

Arrest/Charge Information

Arrest Date: October 25, 2010 05:30 pm (17:30:00)

Fax Number M60169
Place of Arrest: NYCPD 20
Arrest Type: Unknown
Date of Crime: March 10, 2010
Place of Crime: NYCPD 20
Criminal Justice
Tracking No.: 64482560N
Arresting Agency: NYCPD PCT 020
Arresting Officer ID: 891315
Arrest Number: M10695130
Arraignment: New York County Criminal Court
Arrest Charges:

-- Stalking 3rd: 3 Or More Persons On Separate Occasions- No Prior Conv
PL 120.50 Sub 01

Class A Misdemeanor Degree 3 NCIC 1316 ✓

No Court Reported Information

↓ Cycle 13 ↑

Arrest/Charge Information

Arrest Date: October 25, 2010 05:30 pm (17:30:00)

Fax Number M60172
Place of Arrest: NYCPD 20
Arrest Type: Unknown
Date of Crime: June 01, 2009
Place of Crime: NYCPD 20
Criminal Justice
Tracking No.: 64482547H
Arresting Agency: NYCPD PCT 020
Arresting Officer ID: 891315
Arrest Number: M10695134
Arraignment: New York County Criminal Court
Arrest Charges:

-- Stalking 3rd: Cause Person To Fear Injury/Sex Offense/Kidnapping/Death
PL 120.50 Sub 03

Class A Misdemeanor Degree 3 NCIC 1316 ✓

-- Aggravated Harrassment-2nd: Communicate In Manner Likely To Cause Alarm
PL 240.30 Sub 01

Class A Misdemeanor Degree 2 NCIC 5309 ✓

-- Stalking 4th: Cause Fear Of Material Harm To Health, Safety, or Property
PL 120.45 Sub 01

Class B Misdemeanor Degree 4 NCIC 1316 ✓

GJ#3-24

PART 1 AUG 16 2010

Filed:

WAIVED

2010NY055835

2009NY034165

3rd GRAND JURY

No.

3889-2010

THE PEOPLE OF THE STATE OF NEW YORK

-against-

HUGUES AKASSY,

Defendant.

INDICTMENT

- ✓ RAPE IN THE FIRST DEGREE, P.L. §130.35(1)
- CRIMINAL SEXUAL ACT IN THE FIRST DEGREE, P.L. §130.50(1)
- SEXUAL ABUSE IN THE FIRST DEGREE, P.L. §130.65(1), 3 Cts
- STALKING 3RD DEGREE, P.L. §120.50(1)
- STALKING 3RD DEGREE, P.L. §120.50(3), 4 Cts
- STALKING 4TH DEGREE, P.L. §120.45(1), 4 Cts
- STALKING 4TH DEGREE, P.L. §120.45(2), 3 Cts
- STALKING 4TH DEGREE, P.L. §120.45(3)
- ✓ AGGRAVATED HARASSMENT IN THE SECOND DEGREE, P.L. §240.30(1)(a), 3 Cts
- PETIT LARCENY, P.L. §155.25
- CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FIFTH DEGREE, P.L. §165.40
- CRIMINAL TRESPASS IN THE THIRD DEGREE, P.L. §140.10(a)

FORGIVEN

CYRUS R. VANCE, JR., District Attorney

Jessica Troy
Trial Bureau 70

Adjourned to Part 71 on September 15, 2010

A True Bill



Foreman

Filed:

WAIVED

2010NY055835
2009NY034165

No.

THE PEOPLE OF THE STATE OF NEW YORK

-against-

HUGUES AKASSY,

Defendant.

INDICTMENT

RAPE IN THE FIRST DEGREE, P.L. §130.35(1)
CRIMINAL SEXUAL ACT IN THE FIRST DEGREE, P.L. §130.50(1)
SEXUAL ABUSE IN THE FIRST DEGREE, P.L. §130.65(1), 3 Cts
STALKING 3RD DEGREE, P.L. §120.50(1)
STALKING 3RD DEGREE, P.L. §120.50(3), 4 Cts
STALKING 4TH DEGREE, P.L. §120.45(1), 4 Cts
STALKING 4TH DEGREE, P.L. §120.45(2), 3 Cts
STALKING 4TH DEGREE, P.L. §120.45(3)
AGGRAVATED HARASSMENT IN THE SECOND DEGREE, P.L. §240.30(1)(a), 3 Cts
PETIT LARCENY, P.L. §155.25
CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FIFTH DEGREE, P.L. §165.40
CRIMINAL TRESPASS IN THE THIRD DEGREE, P.L. §140.10(a)

FORGEM!

CYRUS R. VANCE, JR., District Attorney

A True Bill

Foreman

Jessica Troy
Trial Bureau 70
Adjourned to Part 71 on September 15, 2010

APPENDIX N-5

ATTACHMENT



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

BARBARA D. UNDERWOOD
SOLICITOR GENERAL

CRIMINAL APPEALS AND
HABEAS CORPUS BUREAU
Direct Line: 212-416-8846

July 21, 2017

By Electronic Filing

The Honorable Katharine H. Parker
United States Magistrate Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Akassy v. Kirkpatrick,
16-CV-7201 (LAP) (KHP)

Dear Judge Parker:

I represent the respondent in this habeas corpus matter pursuant to 28 U.S.C. § 2254. Pursuant to the Court's July 13, 2017, order, respondent submits this letter in response to petitioner's July 7, 2017, letter. (Docket No. 56.) Petitioner in his letter seeks to add three pages of a New York Division of Criminal Justice Services "rap sheet" to the state court record and makes three arguments based upon what he contends the rap sheet shows.

I do not object to the addition of the three-page rap sheet to the record, though I wish to note that the third page, marked "3-3" (Dkt No. 56, at 5), already is part of the state court record at SR 507 and 958.

Petitioner first argues that, according to the rap sheet, the grand jury indicted him only for one count of rape, not on the 23 other counts contained in the indictment. He further notes that the rap sheet also indicates that at his September 15, 2010, arraignment, he was arraigned on only the one count of rape. Petitioner appears to be referring to page 1-3 (Dkt No. 56, at 3). It is unclear on what petitioner is basing the argument that he was indicted on only one charge when he was indicted on August 16, 2010. See SR 36 (true bill). Although the notation on the rap sheet for the September 15, 2010, arraignment date does list

only the top count of the indictment, first-degree rape, rather than all 24 of the charges for which petitioner was indicted, that certainly does not mean that petitioner was indicted only for that charge. The indictment and the true bill signed by the jury foreperson (SR 24-36) are the official record of the charges for which petitioner was indicted.

Petitioner's second argument was fully addressed in respondent's memorandum of law in opposition to the petition, in Point I, starting on page 44. With respect to petitioner's third argument, I see no reference in the rap sheet to either October 25, 2010, or December 20, 2010. However, to the extent that petitioner is re-arguing his claim that prosecutors falsified the indictment, I respectfully refer the Court to Point V(4), pages 63-63, of respondent's memorandum.

Thank you very much for your consideration.

Respectfully Submitted,

/s/ Margaret A. Cieprisz
Margaret A. Cieprisz (MC2563)
Assistant Attorney General
Margaret.Cieprisz@ag.ny.gov
(212) 416-8620

cc: Hugues-Denver Akassy
DIN #: 11-A-5580
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

EXCEPT COPIES
OF RESPONDENT'S DKT. NO. 38

Petitioner objects to an email prosecutors sent (SR 984), using addresses found on his computer, to locate additional victims. (ECF Document 2-1 at 13; (SR 699.) In this short email, an Assistant District Attorney identified herself, indicated that her office was investigating petitioner, stated that petitioner was "currently under indictment and incarcerated on a number of charges," and said that her office was "investigating whether [petitioner] has had victims in the past who are not currently known to us." The ADA indicated that she was sending the email to people whose email addresses were discovered through a search of petitioner's computer, and asked the recipient to contact her if she had any information about petitioner. (SR 984.) Petitioner claims that this email was sent for the purpose of ruining his reputation. As discussed above, petitioner has failed to provide any evidence that his arrest was based on any malicious intent or that the email was anything but a legitimate law enforcement tool. The plain language of the email fails to support petitioner's claim in any way. Moreover, because petitioner has failed to establish any way in which the email impacted the fairness of his trial, he has not shown that it violated any constitutional right.

4. Falsification of Indictment Claim (claim 8)

Petitioner's claim that prosecutors falsified the indictment to make it appear that the grand jury had indicted petitioner for 24 counts, instead of 4 counts, and his related claim that the grand jury failed to indict him for the counts related to Oaks are not cognizable on federal habeas review and, in any case, completely lacking in factual support. They cannot provide a basis for relief. *See* Habeas Rule 2(c)(2).

Petitioner claims that the grand jury indicted him only for first-degree rape and three counts of aggravated harassment. (SR 707-08.) Thus, he is claiming that the grand jury did not find probable cause for the other charges of which he was convicted, the two counts of stalking.

However, claims relating to improprieties in the grand jury are not cognizable on federal habeas review. See *MacLean v. Lewin*, 10-CV-0306 (MAT), 2011 U.S. Dist. LEXIS 79051, *22 (W.D.N.Y. July 20, 2011) (citing *United States v. Mechanik*, 475 U.S. 66, 68 (1986) (“[T]he petit jury’s subsequent verdict means not only that there was probable cause to believe that the defendants were guilty as charged, but also that they are in fact guilty as charged beyond a reasonable doubt . . .”). Any claim that the grand jury may not have found probable cause for these charges is harmless in light of the petit jury’s verdict of guilty beyond a reasonable doubt for the stalking counts.

In any event, petitioner lacks any factual support for this claim. Petitioner’s sole basis for levying this charge appears to be that one version of the indictment cover sheet has checkmarks next to the rape and aggravated harassment counts, but not next to the other charges in the indictment. (Petition Ground One (a).) Petitioner has attached to his petition two copies of the cover sheet, one with the checks and one without. (ECF Document 2-1 at 49, 51). In addition, to support the other portion of his claim, petitioner has pointed out that the cover sheet (both versions) contains the word “WAIVED” at the top. Because the original 2009 case number assigned to the Oaks case appears on the cover sheet in the general vicinity of the word “WAIVED,” petitioner suggests that this means that the grand jury chose not to indict him for the charges relating to his crimes against Oaks, or, “WAIVED” any indictment for these charges. This constitutes rank speculation for which there is absolutely no support in the record. This argument also is internally inconsistent with petitioner’s checkmark argument. Petitioner claims that the checkmark specifies the only charges for which he was indicted. Yet, there is a checkmark next to the aggravated harassment counts. This is inconsistent with his argument that the grand jury “WAIVED” charges

with respect to Oaks because the one of the checkmarked aggravated harassment charges related to Oaks.

In addition, to resolve this claim, this Court may “apply a ‘strong presumption of constitutional regularity in state judicial proceedings.’” *Mena v. Heath*, 2016 U.S. Dist. LEXIS 71655, *38 (S.D.N.Y. May 31, 2016) (citing *Darr v. Burford*, 339 U.S. 200, 218, 70 S. Ct. 587, 94 L. Ed. 761 (1950)). “Indeed, this presumption of regularity in criminal proceedings may be overcome only by ‘substantial evidence to the contrary.’” *Id.* (citing *People v. Harris*, 61 N.Y.2d 9, 16, 459 N.E.2d 170, 471 N.Y.S.2d 61 (1983)). “The presumption of regularity allows a court to assume that an official or person acting under an oath of office will not do anything contrary to his or her official duty or omit to do anything which his or her official duty requires to be done.” *Id.* at 39 (citing *Jones v. Vacco*, No. 96 Civ. 4907 (SAS), 1996 U.S. Dist. LEXIS 13851, *6 (S.D.N.Y. Sept. 19, 1996) (quoting *People v. Bicet*, 180 A.D.2d 692, 580 N.Y.S.2d 55, 56 (2d Dep’t 1992)). Other than petitioner’s creative extrapolation from the indictment cover sheet, petitioner has presented nothing, and certainly no credible evidence, from which to conclude that petitioner was indicted only for 4 crimes, rather than the 24 contained in the indictment, that the grand jury did not indict him for the crimes against Oaks, or that the People falsified the grand jury indictment.

5. Petitioner’s Additional Grand Jury Claims (claims 10-12)

Petitioner raises several additional claims of misconduct relating to the grand jury. He asserts that the prosecutors feared that the grand jury would not indict him for the rape charge, so they presented additional charges to the grand jury hoping that the grand jury would conclude that if there was probable cause for some of the crimes, there must be probable cause for the rape (claim

10).²⁵ Petitioner's claim of any malicious intent by prosecutors is entirely unsupported. Moreover, as noted above, any claims of improprieties in the grand jury are not cognizable on federal habeas review because the jury's verdict necessarily means there was probable cause for each of the charges presented to the grand jury, of which petitioner was convicted. See *MacLean v. Lewin*, No. 10 Civ. 0306 (MAT), 2011 U.S. Dist. LEXIS 79051, *22, *Lombard v. Mazzuca*, No. 00 Civ. 7622 (JG), 2003 U.S. Dist. LEXIS 22085, *17 (E.D.N.Y. Dec. 8, 2003) (citing *Harris v. Artuz*, No. 97-CV-2135, 288 F. Supp. 2d 247, 261 (E.D.N.Y. 2003) (citing *Lopez v. Riley*, 865 F.2d 30, 32 (2d Cir. 1989))). This claim thus provides no basis for habeas relief.

Petitioner also claims that the prosecutor failed to inform him of all the crimes the grand jury was investigating before he testified in the grand jury, that the prosecutor should not have questioned him about matters unrelated to the rape, and that the prosecutor attacked him during questioning (claims 11 and 12). Petitioner has cited no constitutional right that was violated by the failure to inform him of all the charges the grand jury was investigating or suggested how it might have impacted his right to a fair trial, so this claim is not cognizable on federal habeas review. Petitioner fails to show how questioning him in the grand jury about matters unrelated to the rape or even "attack[ing]" him during questioning had any impact on his right to a fair trial. Thus, these allegations of grand jury improprieties also fail to state a cognizable federal claim.

6. Prosecutors Made False Statements to the Media about Petitioner to Turn Public Opinion Against him and Used Unflattering Terms to Describe Him in Court Documents (claim 13)

²⁵ In his habeas petition, petitioner also argues, apparently for the first time, that presenting the misdemeanors to the grand jury violated CPL § 190.50. (ECF Document 2 at 7.) This claim, as noted above, is unexhausted because it does not appear to have been presented in state court. It is also not cognizable on federal habeas review because it involves a claimed violation of state law.

Petitioner's claims that the prosecutors made allegedly false statements about him to the media and in "court documents" are not cognizable on federal habeas review because they fail to implicate any federal constitutional rights. Petitioner attached several newspaper articles to his state court submissions and provides quotes in Exhibit 49, attached to his petition, that portray him in an unflattering way. (ECF Document 2-1 at 8-12; SR 535-38.) As the People stated in their affirmation in response to petitioner's § 440.10 motion, no comments the District Attorney's office made in any way misrepresented petitioner. (SR 461-62.) More to the point, however, petitioner's claim regarding public opinion of him fails to establish that he was deprived of a fair trial. At the start of jury selection, the trial court informed the venire that information about this case had been in the news, and asked the prospective jurors to inform the court of whether or not anyone had "read, seen, heard, reviewed anything" about this case. (10/17/11 T. 13-14.) Petitioner has failed to establish that any member of the jury selected to hear his case was influenced by any press reports of the crimes. Thus, because petitioner has not shown that any unflattering portrayal of him in the media impacted his federal constitutional rights, this claim is not cognizable on federal habeas review.

Similarly, petitioner's claim that prosecutors improperly characterized petitioner as a "con artist," "grifter," "fake French journalist" in "court documents" impacted his right to a fair trial. (SR 706.) As an initial matter, the purported "court documents" instead appear to be internal District Attorney's office reports. (SR 533-534.) Though likely provided to the defense in discovery, there is no indication that these documents were submitted to the court. More to the point, however, petitioner has failed to establish that these documents were shown to the jury or that they in any way impacted his right to a fair trial. Thus, this claim also is not cognizable on federal habeas review.

APPENDIX N-6

ATTACHMENT

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK - CRIMINAL TERM - PART: 71

----- X

THE PEOPLE OF THE STATE OF NEW YORK,

Indict. No.
3884/2010

-against-

HUGUES AKASSY,

DEFENDANT.

CHARGE

RAPE1

CALENDAR CALL

----- X

100 Centre Street
New York, New York 10013
September 7, 2011

B E F O R E:

HONORABLE CAROL BERKMAN,
JUSTICE OF THE SUPREME COURT

A P P E A R A N C E S:

FOR THE PEOPLE:

CYRUS R. VANCE, JR., ESQ.

DISTRICT ATTORNEY, NEW YORK COUNTY

One Hogan Place

New York, New York 10013

BY: JESSICA TROY, ESQ.

Assistant District Attorney

GLENN HARDY, ESQ.

Attorney for the Defendant

Hon. Carol Berkman - Akassy

From: "Troy, Jessica" <TROJ@dany.nyc.gov>
 To: <cberkman@courts.state.ny.us>
 Date: 8/12/2011 4:53 PM
 Subject: Akassy
 CC: "Glenn F. Hardy" <ghardyesq@aol.com>, "Auletta, Emily" <AulettaE@dany.ny...

Hello Judge Berkman.

As you know, we are scheduled to start the trial in PSNY v. Hugues Akassy on September 7. As you know, however, there are many witnesses involved in the case, some of whom are European. One witness intends to be in Europe for most of September, returning September 26. Another (the Russian) has communicated to me that she is in the hospital right now, and does not know when she will be released. She has been contacted by Russian authorities pursuant to our Mutual Legal Assistance Treaty request, but has not yet indicated that she will be able to travel for trial.

I met with Mr. Hardy in my office today, and we discussed some timing issues. Mr. Hardy expects to take off Sept. 28-30 for the Jewish Holidays, and a memorial service for my grandmother is planned for September 23. We agreed, therefore, that the best idea would be to agree on October 5 for hearing and trial. On that date, the People will be ready. While we hope to have the Russian victim present in New York to testify at trial, even if she is not, we intend to go forward.

If the October 5 trial date is not convenient for the Court, please let us know and we can work together to find a better date.

Thank you and have a good weekend,
 Jessica Troy

 This email communication and any files transmitted with it contain privileged and confidential information from the New York County District Attorney's Office and are intended solely for the use of the individuals or entity to whom it has been addressed. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this email is strictly prohibited. If you have received this email in error, please delete it and notify the sender by return email.

PS: The above off-line forged email composed by A.D.A. Troy in conspiracy with Court-Appointed Counsel Glenn F. Hardy, amid others, and was never introduced at my trial as evidence as why the alleged "RAPE witness" with whom the D.A.'s Office produced no physical medical and communication evidences, refused to show at trial to be confronted and cross-examined under the U.S. Sixth Amendment and New York State Law Article 6.

UNTIMELY MISSING ALLEGED RAPE VICTIM WITNESS ARGUMENT BETWEEN COURT OF CLAIMS, ADATROY AND ADILETA, AND COUNSEL HARDY

Proceedings

1323

1 THE COURT: Well, charging is different.

2 I hear what you're saying.

3 And I was actually pretty careful in -- it was my
4 initial inclination to simply give one misdemeanor count
5 for each of the alleged victims in this case. We all know
6 that the misdemeanors merge, certainly.

→ 7 And I am sensitive to your concern about
8 validating each of the victims, which is why I included
9 all of them. And in this case I did two A misdemeanors in
10 each case.

11 The criminal trespass that's charged with respect
12 to Bess Greenberg is a class B misdemeanor, which I know
13 you know.

14 The petit larceny, yes, there was testimony about
15 it. But, again, it merges with everything else.

16 I have charged aggravated harassment in the
17 second degree with respect to Bess Greenberg. I have
18 charged stalking in the third degree with respect to Bess
19 Greenberg.

20 In my view, this is an awful lot based on this
21 case.

22 Sort of in a nod to you and your case, I'm giving
23 two misdemeanor counts with respect to each of those
24 women.

25 I mean, the C.P.L. I think for a reason gives me

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

Proceedings

1324

1 that discretion.

2 I do think that in this case the charge is very
3 long. There are ten counts. I think the number of counts,
4 the complexity of it, in and of itself, would place a
5 burden on this jury that it doesn't need. Particularly
6 because those which you're asking me to include, the
7 criminal trespass is a B misdemeanor and the petit larceny
8 is an A misdemeanor.

→ 9 At the end of the day, this case is, as you
10 argued or I should say as you opened, one of rape,
11 criminal sexual act and stalking. That's how you billed
12 this case. Based on the evidence if it's believed by the
13 the jury beyond a reasonable doubt, then I would say
14 rightfully so.

15 So, I think I included charges that are
16 representative of your case precisely. That's why I did it
17 that way.

18 MS. TROY: Okay.

19 THE COURT: Anything else from the People?

20 MS. TROY: No. Thank you.

21 THE COURT: Mr. Hardy, questions, concerns,
22 complaints, disagreements?

→ 23 MR. HARDY: Judge, I would only ask for the
24 missing witness charge.

25 THE COURT: It's not a timely request, Mr. Hardy.

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

MR. HARDY: I know we broke at lunch. I did contact your office probably about ten minutes after that, and I did notify the assistant DA regarding that.

THE COURT: Right.

The law is that you have to -- you're supposed to do that prior to the parties resting; right?

MR. HARDY: I think it's in the Court's discretion. I don't know if that's actually the law.

THE COURT: I'll hear from you.

MS. AULETTA: Well, as Your Honor just mentioned, the request is not prompt, particularly in this case where even before the start of the trial, the People made clear to the defense that we would not be securing Ms. Antipeva presence, she would not be coming from Russia.

Most importantly, the witness is not available in this case. She lives in Russia, halfway across the world.

She's been hospitalized for a back injury.

THE COURT: Is she in the hospital currently?

MS. TROY: The last we heard from her.

MS. AULETTA: The last we heard from her.

THE COURT: When was the last you heard from her?

MS. AULETTA: About a month ago, before starting trial, before being sent out October 25th.

Beyond that, we did a Mutual Legal Assistance Treaty with Russia and worked with the Department of

Justice to try to get Ms. Antipeva here.

The Russian government would not -- they're not compelled to force her to come here.

She refused to come.

Beyond that, while the office was willing to send ADA Troy to Russia to get Ms. Antipeva to talk to her there, the Department of Justice couldn't put that request through because of Ms. Antipeva's hospitalization. It was, in fact, impossible to arrange with her a time and a place to meet with her. Without that specific information, the Department of Justice could not arrange for us to be sent there to meet with her, go get her.

Beyond that, she is not within our control for the same reason.

Though, victims are generally held to be within the People's control, here, she is living in Russia, out of the country.

THE COURT: Well, control doesn't mean control. Control means favorability.

Clearly, you would agree with me she would be giving information favorable to you.

MS. AULETTA: She would be.

There is case law saying a victim who would give favorable testimony who even lives in Texas would not be able to get control.

1 THE COURT: It has nothing to do with being able
2 to get her. That's the availability prong.

3 MS. AULETTA: I understand. The case law
4 sometimes conflates the two.

5 The People submit for those reasons and for the
6 reason the request was not prompt, the request should be
7 denied.

8 THE COURT: I would say that argument is somewhat
9 compelling, Mr. Hardy.

10 What's your position?

11 MR. HARDY: I am still going to ask for it.

12 They had plenty of time to get Ms. Antipeva here.
13 They knew well in advance when this case was going to
14 trial. They had months, if not almost a year and two
15 months to get her here. They certainly could have made
16 whatever arrangements and started the process far earlier
17 in order to get her back here.

18 THE COURT: Okay.

19 I am going to give the charge. And I will give it
20 after page -- on page 12, before expert witness, after
21 consistency.

22 And I will say that: The defendant contends that
23 Ms. Antipeva has knowledge relevant to this issue. The
24 People didn't call her. The fact that she's not called
25 permits but does not require an inference that her

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 testimony would not have supported the People's position
2 at trial.

3 MS. AULETTA: While I understand your ruling now,
4 we strongly object to that.

5 I am wondering if I could at least provide the
6 Court case law to read.

7 THE COURT: Sure. You're going to give me Savino
8 and its progeny. I'll review it.

9 MS. AULETTA: That's not one of the cases I was
10 going to give.

11 I'll hand the defense copies, as well.

12 (Whereupon, Ms. Auletta gives documents to the
13 Court and the defense counsel.)

14 THE COURT: I am going to hand down the verdict
15 sheet for your review. If you agree -- please note I've
16 annotated it. Look at it carefully. If it is acceptable to
17 you, please initial the back.

18 (Whereupon, Mr. Hardy reviews the verdict sheet.)

19 MS. AULETTA: Judge, while I didn't specifically
20 mention it, one of the cases I handed up is People v.
21 Maldonado, which stands for the fact that when a witness
22 is too sick or incapacitated to testify, no missing
23 witness charge should be given.

24 Here, this applies as well, as Ms. Antipeva is
25 hospitalized. The last we heard from her when we began

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

this case, she's still in the hospital.

THE COURT: Right. But we don't know the status of her condition today. I'm aware of that.

MS. TROY: That is also because she has ceased to communicate with me. The last time I heard from her, I asked her to please call me.

I have made -- the defense knows that the People have made many, many, many attempts to get Ms. Antipeva here. I mean, we put in a Mutual Legal Assistance Treaty request with the Russian government.

We have not been able to secure her attendance here. We have done absolutely everything we can think of in order to get her here.

She is not available to us.

THE COURT: I am not assessing blame.

This is a case where you're charging a B violent felony offense. The witness wasn't here.

I've given you some great leeway in this case with excited utterances.

I'm going to give the charge.

Have you reviewed the verdict sheet?

MR. HARDY: I have.

THE COURT: Please give it to the People.

(Whereupon, Mr. Hardy initials the verdict sheet.)

Continued from the previous page.

MS. TROY: Before I close, I would like to make one final record about this missing witness charge.

THE COURT: All right.

MS. TROY: As Your Honor is aware, it's obviously untimely, and as Your Honor brought up, defense counsel did not see fit to even make mention of this prior to our having closed, and in fact sent me a text message about a half hour before he made the motion letting us know.

I'm going to argue again that it prejudices us. We had had no opportunity to bring any witnesses or bring forth any testimony about why Ms. Antipeva is not here. We had no opportunity to do that because this motion is not timely.

It is not fair to give the interested witness -- or to give the missing witness charge here. In addition, we would have had an opportunity to explain the efforts we made.

My understanding was that was the Defense's understanding, that a missing witness charge would never be appropriate here because this witness was clearly not available to us. I'm just asking you one more time not to give that charge.

THE COURT: Do you want to be heard?

MR. HARDY: Judge, the fact that they didn't bring in witnesses to explain why she wasn't here, they certainly had this case for a year and a half and prepped it that way.

Elizabeth McCardel Chan, RPR

THE COURT: She is suggesting that it was dirty pool here, that you led her to believe that you weren't going to ask for it, and therefore, they didn't call the police officer to say she is in Russia and sick and so on and so forth, which is not really how I understood it earlier, but is she right?

MR. HARDY: I don't consider it dirty pool. I'm advocating for my client. If the charge fits, and I think it does in this particular instance, I'm going to make mention of it.

There was no stipulation between the two of us saying we were going to agree to follow a certain path as to how this trial was going to follow.

We agreed on certain stipulations throughout the trial. We agreed on certain stipulations regarding testimony, witnesses who did not have to testify.

Certainly, we could put a stipulation in saying that we agreed that Ms. Antipeva is not going to be here. We agreed that she is not going to be considered a missing witness because of these particular reasons.

THE COURT: OK. You have your record.

COURT OFFICER: Jury entering.

(Jurors enter the courtroom.)

THE COURT: Both sides stipulate that the jury are present and properly seated?

MS. TROY: Yes.

Elizabeth McCardel Chan, RPR

APPENDIX

N-7

ATTACHMENT



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LITITIA JAMES
ATTORNEY GENERAL

DIVISION OF APPEALS & OPINIONS
CRIMINAL APPEALS & FEDERAL HABEAS BUREAU

January 7, 2019

BY ELECTRONIC FILING

Honorable Loretta A. Preska
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Akassy v. Kirkpatrick*
16-cv-07201 (LAP) (KHP)

Dear Judge Preska:

On behalf of respondent, Superintendent Kirkpatrick, I respectfully ask the Court to reject petitioner Hugues-Denver Akassy's objections (Docket No. 74) to Magistrate Judge Katharine H. Parker's December 7, 2018, Report and Recommendation (Docket No. 73). In that report, the magistrate judge recommends that this Court deny petitioner's claims and dismiss the petition in its entirety. We ask this Court to adopt the magistrate judge's Report and Recommendation, dismiss the petition, and decline to issue a certificate of appealability.

Thank you for your consideration.

Respectfully submitted,

/s/ Margaret A. Cieprisz
Margaret A. Cieprisz
Assistant Attorney General
MC-4599
Margaret.Cieprisz@ag.ny.gov

APPENDIX

N-8

ATTACHMENT

May 6, 2019

The Honorable Loretta A. Preska
United States District Judge
United States District Court
Southern District of New York
U.S. Courthouse, 500 Pearl Street
New York, N.Y. 10007-1312

RE: On Appeal From Magistrate Judge Katharine H. Parker's Refusal
To Recuse Herself From Petitioner's Petition For Writ of Habeas
Corpus, in The Matter of Akassy v. Kirkpatrick, No. 16-CV-7201
(LAP)

Honorable District Judge Preska:

Upon request, and having received on May 2, 2019, the Court Docket-Sheet dated April 30, 2019, I respectfully move to appeal Magistrate Judge Katharine H. Parker's decision dated April 19, 2019, which denied my motion for recusing herself on my Pro Se Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 by a Person in State Custody, Docket No. 16-CV-7201(LAP)(KHP)(Dkt. No. 87), without serving me her Order.

Magistrate Judge Parker's Order does not indicate in Dkt. No. 87, that my claims raised in my Ethics Violation Complaint(s) (Dkt. Nos. 82 & 86), were addressed. (See attached as Exhibit A).

On December 5, 2016, this Court of the Honorable District Judge Preska, issued an Order (Dkt. No. 19) to unseal my state criminal trial documents and transcripts.

On January 6, 2017, this Court of the Hon. District Judge Preska, issued an Order to "the Clerk of the Court for [assignment] to a Magistrate Judge for Habeas Corpus. Referred to Magistrate Judge Andrew J. Peck." (Dkt. No. 23).

But on January 9, 2017, Magistrate Judge Parker, violated the Hon. District Judge Preska's Order (Dkt. No. 23) id., to hijack my Habeas Corpus in order to gut my exculpatory Grand Jury evidence materials, and issued a blatant distortion of the facts in her slanderous-smut Report and Recommendation dated December 7, 2018 (Dkt. No. 73), which I moved to object in their entirety. The pseudo-Report and Recommendation were a cut-and-paste from the Volunteer Assistant Attorney General of the State of New York, Margaret Ann Cieprisz, Respondent's Reply Brief (Dkt. No. 38).

On February 10, 2017, Magistrate Judge Parker, in coordination with Respondent, violated the Hon. District Judge Preska's Order (Dkt. No. 19) id., to issue a "Sealing Order," of my state criminal trial documents and transcripts (Dkt. No. 32), in order to cover-up an unprecedented serious misconduct by unethical prosecutors from

New York County District Attorney's Office, state judges, police, courts' staff and court-appointed counsels, and proceeded to mislead me through the Court Docket-Sheet, that the "Sealing Order" to overrule the Hon. District Judge Preska's Order (Dkt. No. 19) id., was made by United States Court of Appeals Judge Barrington D. Parker, before the signature of it was "modified" on 4/18/2019, upon my letter dated April 15, 2019, to the Clerk of the Court of the United States Court of Appeals for the Second Circuit.

On December 27, 2018, I filed a Motion for Subpoena to Compel the New York County District Attorney's Office to Produce Petitioner's Official Press Credentials and News Assignment Tapes, with the Hon. District Judge Preska. (Dkt. No. 75).

But on January 8, 2019, Magistrate Judge Parker, overreached to hijack my motion again to issue a premature published Opinion and Order, which denied my Subpoena, and misquoted me as a "fake journalist." (Dkt. No. 79)(see, Akassy v. Kirkpatrick, WL 125947, U.S.D.C.S.D.N.Y(January 8, 2019)).

On February 12, 2019, I filed an Ethics Violation Complaint, asking the Hon. District Judge Preska, the removal of Magistrate Judge Parker, from my case due to Ethics Violation, Racial Bias, Abuse of Discretion and Obstruction of Justice. (Dkt. No. 82).

By Order dated February 14, 2019, the Hon. District Judge Preska, directed me to address my Motion for Recusal to Magistrate Judge Parker, instead. (Dkt. No. 83).

By the Court's Order dated February 14, 2019 (Dkt. No. 83) id., I moved to re-file my Motion for Recusal, and had it served to Magistrate Judge Parker. (Dkt. No. 86).

By an Order dated March 1, 2019, Magistrate Judge Parker, affirmed to have received the Hon. District Judge Preska's Order (Dkt. No. 83), and that she "will issue a [decision] regarding the pending application." (Dkt. No. 85).

On April 24, 2019, I filed a Motion to Strike-off any actions or decisions made by Magistrate Judge Parker in my case and to re-instate this Court's Dkt. No. 19 by the Hon. District Judge Preska, because Magistrate Judge Parker, impersonated U.S. Court of Appeals Judge Barrington D. Parker, in Dkt. No. 32, to overrule the Hon. District Judge Preska's Order to unseal my state criminal trial documents (Dkt. No. 19) id.

Following my letter dated April 15, 2019, to the Clerk of the Court of the United States Court of Appeals for the Second Circuit, which compelled Magistrate Judge Parker, to issue a correction on April 18, 2019, with her own signature on Dkt. No. 32, on April 19, 2019, Magistrate Judge Parker, issued her Order to deny my Motion for Recusal (Dkt. No. 87) id., and deliberately failed once again to direct the Clerk of the Court to have me served. (See Docket-Sheet). Had not been the request made for the Docket-Sheet, I would

not have been able to find out that Magistrate Judge Parker, had her decision to deny my Motion for Recusal made, to allow me to proceed my appeal on time.

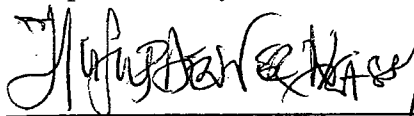
Ms. Parker, as a Magistrate Judge, has no judicial power to overrule a U.S. District Judge's Order.

Magistrate Judge Parker's actions in my Habeas Corpus were plainly racist beyond no bounds: she took advantage of my situation as a black man, a lay-man indigent defendant proceeding Pro Se without a lawyer to fully understand state and federal laws, a foreign African-French disposal for immigration deportation, to be abused psychologically, railroaded, slandered with a reckless disregard for truth in her decisions on my Writ of Habeas Corpus and Subpoena, in order to burry away the truth, the whole truth, nothing but the truth about another "Killing of a Mockingbird" by the State of New York.

Pursuant to Federal Code Annotated 28 U.S.C.A. 636, Jurisdiction, Powers, and Temporary Assignment, Magistrate Judge Parker, lacked subject matter jurisdiction on my case, and she has abused her power as a Magistrate Judge to commit ethics violation, obstruction of justice, racial bias and prejudice.

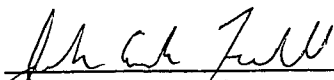
For the reasons set forth, I humbly and respectfully ask, Your Honor, to deny Magistrate Judge Parker's Order (Dkt. No. 87), and grant my Motion for Recusal. In the alternative, I ask the Court to inform me if this appeal should be filed with the United States Court of Appeals, as it is just and proper.

Respectfully submitted,



Hugues-Denver Akassy
Petitioner, Pro Se
DIN #: 11 A 5580
Clinton Correctional Facility
P.O. BOX 2001
Dannemora, New York 12929

SWORN TO BEFORE ME
This 9th day of May, 2019


NOTARY PUBLIC

JOHN ANDREW FARRELL
Notary Public, State of New York
No. 01FA6381949
Qualified in Clinton County 22
Commission Expires 10/15/20

cc: Magistrate Judge Katharine H. Parker
United States District Court
Southern District of New York

The Pro Se Intake Unit
United States District Court
Southern District of New York