

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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KAH 09-00304

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, AND GREEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
CLAUDE GIGUERE, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

WARREN BARKLEY, SUPERINTENDENT, CAPE VINCENT
CORRECTIONAL FACILITY, AND NEW YORK STATE
DEPARTMENT OF CORRECTIONAL SERVICES,
RESPONDENTS-RESPONDENTS.

LINDA M. CAMPBELL, SYRACUSE, FOR PETITIONER-APPELLANT.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL),
FOR RESPONDENTS-RESPONDENTS.

Appeal from a judgment of the Supreme Court, Jefferson County (Hugh A. Gilbert, J.), entered January 15, 2009. The judgment dismissed the petition for a writ of habeas corpus.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Supreme Court properly dismissed the petition for a writ of habeas corpus. The challenges by petitioner to the determination of the Administrative Law Judge following his final parole revocation hearing "could have been addressed in the course of [an] administrative appeal," and thus petitioner failed to exhaust his administrative remedies (*People ex rel. Davis v New York State Bd. of Parole*, 263 AD2d 706, 707, lv denied 93 NY2d 819; see *People ex rel. Faison v Travis*, 277 AD2d 916, lv denied 96 NY2d 705; *People ex rel. Campbell v Fillion*, 255 AD2d 915). The constitutional claims raised by petitioner are not of the type "that would justify departing from the general rule requiring exhaustion of administrative remedies" (*People ex rel. Gibbs v New York Bd. of Parole*, 251 AD2d 718, 718, lv denied 92 NY2d 814).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court