

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

810

CA 15-00988

PRESENT: WHALEN, P.J., SMITH, CARNI, CURRAN, AND SCUDDER, JJ.

IN THE MATTER OF ELROY HENDRIX,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

MONROE COUNTY DEPARTMENT OF COMMUNICATION,
RESPONDENT-RESPONDENT.

ELROY HENDRIX, PETITIONER-APPELLANT PRO SE.

Appeal from a judgment (denominated order) of the Supreme Court, Monroe County (Ann Marie Taddeo, J.), entered April 20, 2015 in a CPLR article 78 proceeding. The judgment denied the petition.

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

Memorandum: Petitioner appeals from a judgment that denied his CPLR article 78 petition seeking to compel respondent to produce certain documents pursuant to the Freedom of Information Law ([FOIL] Public Officers Law art 6) and CPL 190.25 (4). We affirm. Petitioner was not entitled to the requested grand jury minutes because "the minutes are court records and [are] exempt from the ambit of FOIL" (*Matter of Bridgewater v Johnson*, 44 AD3d 549, 550; see *Matter of Hall v Bongiorno*, 305 AD2d 508, 509). With respect to petitioner's application pursuant to CPL 190.25 (4), we conclude that Supreme Court properly determined that petitioner failed to provide a compelling and particularized need for the minutes (see *Matter of Mullgrav v Santucci*, 195 AD2d 786, 786-787; *Matter of Gibson v Grady*, 192 AD2d 657, 657).

Entered: June 16, 2017

Frances E. Cafarell
Clerk of the Court