

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

713

OP 16-02271

PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND CURRAN, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK EX REL.  
ANDREW WYNDER, PETITIONER,

V

MEMORANDUM AND ORDER

ROBERT M. MACIOL, SHERIFF OF ONEIDA COUNTY JAIL,  
OR ANY OTHER PERSON HAVING CUSTODY OF ANDREW  
WYNDER, RESPONDENT.

---

REBECCA L. WITTMAN, UTICA, FOR PETITIONER.

---

Proceeding pursuant to CPLR article 70 (initiated in the Appellate Division of the Supreme Court in the Fourth Judicial Department pursuant to CPLR 7002 [b] [2]). Petitioner seeks his release from custody on recognizance or bail.

It is hereby ORDERED that said petition is unanimously dismissed without costs.

Memorandum: Petitioner commenced this habeas corpus proceeding in this Court pursuant to CPLR 7002 (b) (2), contending that County Court abused its discretion in declining to set bail on two pending indictments. We note, however, that petitioner has pleaded guilty to and been sentenced on those indictments. Thus, the instant petition "challenging the legality of petitioner's preconviction detention is moot [inasmuch as] petitioner is currently incarcerated pursuant to [ ] judgment[s] of conviction and sentence[s] rendered upon his plea[s] of guilty" (*People ex rel. Macgiollabhui v Schriro*, 123 AD3d 633, 634; see *People ex rel. Green v Saunders*, 145 AD3d 642, 642-643; see also *People ex rel. Wilson v Walsh*, 270 AD2d 885, 885, lv denied 95 NY2d 758). Furthermore, petitioner has failed to establish "the applicability of an exception to the mootness doctrine" (*Macgiollabhui*, 123 AD3d at 634; see generally *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: June 9, 2017

Frances E. Cafarell  
Clerk of the Court