

98 CV 163-EHN-MJ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BRAHA HODJA,

98 CV 163

Petitioner,

MEMORANDUM
AND
ORDER

- against -

HENRY GAVIN, Superintendent,

Respondent.
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BRAHA HODJA
#93-A-2752
900 Kings Highway
Warwick, New York 10990
petitioner pro se

CHARLES J. HYNES
Kings County District Attorney
(Roseann B. MacKechnie, Joyce Slevin, of counsel)
210 Joralemon Street
Brooklyn, New York 11201
for respondent

NICKERSON, District Judge:

Petitioner brought this proceeding under 28 U.S.C.
§ 2254 for a writ of habeas corpus.

Petitioner was found guilty in Supreme Court,
Kings County, New York, of Criminal Possession of a
Weapon in the Second degree and two counts of Criminal
Contempt in the Second Degree. On March 12, 1993, he
was sentenced to concurrent prison terms of six to
twelve years on the weapon possession count and one
year for each of the criminal contempt counts. In
addition the court issued an order of protection

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directing petitioner to stay away from his wife for a period of fifteen years.

On June 12, 1995, the Appellate Division affirmed the conviction. Petitioner's application for permission to appeal to the New York Court of Appeals was denied on August 29, 1995.

On April 8, 1996, petitioner applied pro se for a writ of error coram nobis claiming that his appellate counsel was ineffective for failing to raise a claim, that trial counsel was ineffective, and that the sentence was in violation of the Eighth Amendment prohibiting cruel and unusual punishment. The Appellate Division denied the application.

Petitioner filed the petition in this court on January 9, 1998. Since petitioner's judgment of conviction became final on July 1, 1996, the day the Appellate Division denied petitioner's application for a writ of error coram nobis, the application for a writ in this court is untimely under 28 U.S.C. § 2244(d)(1)(A).

The petition is denied.

So ordered.

Dated: Brooklyn, New York
October 20, 1998


Eugene H. Nickerson, U.S.D.J.