

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

EDWARD J. ROMAN, Sr.,	:	Civil Action No. 16-7256 (RMB)
	:	
Petitioner,	:	
	:	
v.	:	<u>MEMORANDUM AND ORDER</u>
	:	
STATE OF NEW JERSEY and	:	
ATTORNEY GENERAL OF THE	:	
STATE OF NEW JERSEY,	:	
	:	
Respondents.	:	
	:	

A Petition for Writ of Habeas Corpus (ECF No. 1) was filed in the above action, pursuant to 28 U.S.C. § 2254. The Court reviewed the Petition for summary dismissal pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. Petitioner has not named the proper respondent.

"If the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody." Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts. "[T]he default rule is that the proper respondent is the warden of the facility

where the prisoner is being held." Rumsfeld v. Padilla, 542 U.S. 426, 435 (2004).

IT IS therefore on this 15th day of November 2016,

ORDERED that the Clerk of the Court shall administratively terminate this case; Petitioner is informed that administrative termination is not a "dismissal" for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely, see Papotto v. Hartford Life & Acc. Ins. Co., 731 F.3d 265, 275 (2013) (distinguishing administrative terminations from dismissals); Jenkins v. Superintendent of Laurel Highlands, 705 F.3d 80, 84 n.2 (2013) (describing prisoner mailbox rule generally); Dasilva v. Sheriff's Dep't., 413 F. App'x 498, 502 (3rd Cir. 2011) (per curiam) ("[The] statute of limitations is met when a [petition] is submitted to the clerk before the statute runs"); and it is further

ORDERED that the Clerk of the Court shall forward Petitioner a blank habeas petition form-AO 241 (modified):DNJ-Habeas-008(Rev.01-2014); and it is further

ORDERED that if Petitioner wishes to reopen this case, he shall so notify the Court, in writing addressed to the Clerk of the Court, Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101, within 30 days of the date of entry of this Memorandum and Order; Petitioner's writing shall

include a complete, signed habeas petition, naming the proper respondent; and it is further

ORDERED that upon receipt of a writing from Petitioner stating that he wishes to reopen this case, and a complete, signed petition, the Clerk of the Court will be directed to reopen this case; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Memorandum and Order upon Petitioner by regular U.S. mail.

s/RENÈE MARIE BUMB
RENÈE MARIE BUMB
UNITED STATES DISTRICT JUDGE