

NOT FOR PUBLICATIONUNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOSEPHUS T. Y. NYEMA, SR.,

Petitioner,

v.

STATE OF NEW JERSEY,

Respondent.

CIVIL ACTION NO. 09-69 (MLC)

O P I N I O N

THE PETITIONER, Josephus T. Y. Nyema, Sr., earlier filed a petition seeking habeas corpus relief, which the Court treated as filed pursuant to 28 U.S.C. § 2254. (See dkt. entry no. 1, Pet.; dkt. entry no. 5, 8-3-09 Op.) The Court reviewed the Petition, determined that Nyema was not "in custody" when the Petition was filed, and dismissed the Petition for lack of jurisdiction. (See dkt. entry no. 6, 8-3-09 Order & J.; see also 8-3-09 Op. at 3-5.) The Court did not issue a certificate of appealability. (See 8-3-09 Op. at 5-6.)

NYEMA nonetheless filed a notice of appeal with the United States Court of Appeals for the Third Circuit on November 28, 2011, more than two years after the dismissal of the Petition. (See dkt. entry no. 8, Not. of Appeal.) The Court of Appeals dismissed the appeal for lack of jurisdiction. (See dkt. entry no. 12, Order of USCA.)

NYEMA now moves before this Court to reopen the action. (Dkt. entry no. 14, Mot.) The Court will now resolve the Motion on the papers and without oral argument. See L.Civ.R. 78.1(b).

THE COURT earlier noted and explained why the Court lacked jurisdiction over the Petition. (See 8-3-09 Op. at 3-5.) The circumstances attendant to the Petition have not changed. The Court will not reopen the action because the Court, if confronted with the Petition anew, would still lack jurisdiction over it.

THE COURT, for good cause appearing, will issue an Order denying the Motion.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Date: November 13, 2012