

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE S. MENDOZA,

Petitioner,

-against-

WILLIAM LEE, Superintendent of Green
Haven Correctional Facility,

ORDER
09-CV-3814 (JS)

Defendant.

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SEYBERT, District Judge:

On September 3, 2009, petitioner Jose S. Mendoza ("Petitioner") commenced this action by filing a petition for writ of habeas corpus (the "Petition"). (Pet., Docket Entry 1.) Presently pending before the Court is Petitioner's pro se motion.¹ (Pet.'s Mot., Docket Entry 16.) Petitioner alleges that he does not speak English and his attorney "assist[ed] [him] with [his] notice of appeal, appellate division, and court of appeal and with a[] Habeas Corpus, but never submitted a[] certificate of appealability and the Judge closed [his] case." (Pet.'s Mot. at 3, 6.) Petitioner contends that his attorney failed to notify him of the outcome of his case. (Pet.'s Mot. at 6.)

The Court is unable to discern the nature of Petitioner's motion or the particular relief he is requesting. However, to the

¹ The docket reflects that Petitioner is represented by counsel. However, since this matter concluded approximately five years ago and Petitioner's counsel has not filed a response, the Court will treat Petitioner's motion as a pro se application.

extent Petitioner seeks reconsideration of the Court's Memorandum and Order dated October 24, 2012, in which the Court denied his Petition, the Court declines to grant such request. (See Order, Docket Entry 10.) Putting aside the timing of Petitioner's application, Petitioner has failed to identify "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." LoCurto v. U.S., No. 10-CV-4589, 2017 WL 980296, at *1 (E.D.N.Y. Mar. 10, 2017) (internal quotation marks and citation omitted). Parenthetically, Petitioner's allegation that his counsel failed to "submit[] a certificate of appealability" is misplaced, as this Court declined to issue a certificate of appealability when it denied the Petition. (See Order at 12.)

CONCLUSION

For the foregoing reasons, Petitioner's motion (Docket Entry 16) is DENIED. The Clerk of the Court is directed to mail a copy of this Order and the Court's Memorandum and Order dated October 24, 2012, (Docket Entry 10), to Petitioner at the address set forth in his motion.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

DATED: August 2, 2017
Central Islip, New York