

FILED
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U.S. DISTRICT COURT E.D.N.Y.

★ OCT 31 2013 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

ROBERT ALLAWAY, IV,

Petitioner,

– against –

FLOYD BENNET, JR., Superintendent,
Elmira Correctional Facility,

Defendant.

**MEMORANDUM, ORDER,
AND JUDGMENT**

00-CV-4237

JACK B. WEINSTEIN, Senior United States District Judge:

Petitioner moves “pursuant to Rule 60(b)(3)(4) of the Federal Rules of Civil Procedure to [set] aside the judgment [of August 2, 2003 (docket entry 17)] for fraud on the Court and void judgment” *See* Petition dated August 20, 2013, received in *pro se* office October 21, 2013.

The original petition was dismissed with a full opinion. *See* docket entry 17. There was apparently no appeal.

The entirely new claim of petitioner is apparently that the State trial judge appointed as trial counsel a lawyer engaged in a political campaign who did not wish to serve.

This is a second habeas corpus application. Permission to bring it must be obtained from the court of Appeals of the Second Circuit. *See* 28U.S.C. § 2244(b)(1).

This second petition is dismissed.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Jack B. Weinstein", written over a horizontal line.

Jack B. Weinstein

Senior United States District Judge

Dated: October 28, 2013
Brooklyn, New York