

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KEITH WATERS,

Petitioner,

-against-

LYNN LILLEY, Superintendent,

Respondent.

17cv08258 (GHW) (DF)

**ORDER****DEBRA FREEMAN, United States Magistrate Judge:**

This habeas proceeding, brought by *pro se* petitioner Keith Waters (“Petitioner”) to challenge his state-court conviction, was commenced by Petitioner at a time when he was incarcerated at Woodbourne Correctional Facility, in Woodbourne, New York. Petitioner, however, never filed a reply to Respondent’s opposition to his Petition, and, based on publicly available information, it appears that Petitioner was released on parole in October 2019.<sup>1</sup>

Although a habeas petitioner who has been released from prison to the custody of the Parole Board will continue to meet the “in custody” requirement for habeas relief, *Jones v.*

*Cunningham*, 371 U.S. 236 (1963), and thus Petitioner’s release on parole has not rendered his Petition moot, the fact that Petitioner did not file a reply nonetheless raises a question as to whether he still wishes to proceed with his habeas Petition. Thus, under the circumstances, it is hereby ORDERED as follows:

1. If Petitioner no longer wishes to proceed with his habeas Petition, then he should inform the Court of this no later than May 15, 2020.

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<sup>1</sup> See <http://nysdoccslookup.doccs.ny.gov/GCA00P00/WIQ2/WINQ120> (last accessed May 4, 2020); *see also* Dkt. 20 (Notice of Change of Address, dated Oct. 31, 2019).

2. If Petitioner *does* wish to proceed with his Petition, then he is directed to file his reply to Respondent's opposition (Dkts. 17, 18) no later than June 12, 2020. Petitioner is cautioned that, if he fails to file a reply by that date, then the Court may reach a determination on his habeas claims based solely on the Petition itself and Respondent's submissions in opposition.


3. Any submissions that Petitioner wishes to make in response to this Order should be mailed to the Court's *Pro Se* Office, at the following address:

United States District Court, S.D.N.Y.  
*Pro Se* Intake Unit  
U.S. Courthouse  
40 Centre Street, Room 105  
New York, New York 10007

4. The Clerk of Court is directed to mail a copy of this Order to Petitioner, at the address currently reflected on the Docket of this action.

Dated: New York, New York  
May 4, 2020

SO ORDERED

  
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DEBRA FREEMAN  
United States Magistrate Judge