

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: August 1, 2019

528573

THE PEOPLE OF THE STATE OF
NEW YORK ex rel. ANTHONY
HILL,
Appellant,

v

MEMORANDUM AND ORDER

CHRISTOPHER MILLER, as
Superintendent of Great
Meadow Correctional
Facility,
Respondent.

Calendar Date: June 21, 2019

Before: Garry, P.J., Lynch, Mulvey, Devine and Rumsey, JJ.

Anthony Hill, Comstock, appellant pro se.

Letitia James, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondent.

Appeal from a judgment of the Supreme Court (McKeighan, J.), entered January 22, 2019 in Washington County, which denied petitioner's application for a writ of habeas corpus, in a proceeding pursuant to CPL article 70, without a hearing.

Petitioner is currently serving a lengthy prison term following his 2009 conviction of numerous crimes, including rape and sodomy. Petitioner commenced this CPL article 70 proceeding seeking a writ of habeas corpus claiming that the indictment was defective and that Supreme Court lacked subject matter

jurisdiction. Supreme Court dismissed the petition without a hearing, and this appeal ensued.

We affirm. "Habeas corpus is not the appropriate remedy for raising claims that could have been raised on direct appeal or in the context of a CPL article 440 motion, even if they are jurisdictional in nature" (People ex rel. Nailor v Kirkpatrick, 156 AD3d 1100, 1100 [2017] [internal quotation marks and citations omitted]; see People ex rel. Gonzalez v Smith, 122 AD3d 1045, 1046 [2014], appeal dismissed 24 NY3d 1203 [2015]; People ex rel. Riley v Bradt, 91 AD3d 1238, 1238 [2012]). We agree with Supreme Court that the jurisdictional issues raised by petitioner are inappropriate for habeas corpus relief. As we discern no basis to depart from traditional orderly procedure, we find that Supreme Court properly denied petitioner's application (see People ex rel. Nailor v Kirkpatrick, 156 AD3d at 1100; People ex rel. Woodard v Berry, 143 AD2d 457, 458 [1988], lv denied 73 NY2d 705 [1989]).

Garry, P.J., Lynch, Mulvey, Devine and Rumsey, JJ.,
concur.

ORDERED that the judgment is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court