(5)

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 6, 2014

Mr. Scott W. Kroll, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Kroll:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*Harris, Rodney L. v. Erie County Holding Center, et al.*
Document Received:	Petition for Writ of Habeas Corpus
Name of Claimant:	Rodney Harris ICN #18749 Erie County Holding Center 40 Delaware Avenue Buffalo, NY 14202-3999
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker (dld)
Michelle Parker

mmp/
Enc.

cc: Michael A. Siragusa, Erie County Attorney

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

01597-2013

DISTRICT ATTORNEY
25 DELAWARE AVE.

2013 DEC 30 AM 11:32

IN THE MATTER OF THE APPLICATION OF
RODNEY L HARRIS - PETITIONER

-VS-

PETITION FOR WRIT
OF HABEAS CORPUS
INDEX NO.

ERIE COUNTY HOLDING CENTER

NYS DEPT. OF CORRECTIONS AND
COMMUNITY SUPERVISION

NEW YORK STATE BOARD OF PAROLE

DEPT. OF CORRECTIONS AND
COMMUNITY SUPERVISION

COMMISSIONER OF NYS DEPT. OF
CORRECTIONS AND COMMUNITY
SUPERVISION

RESPONDENT(S)

TO THE SUPREME COURT OF THE STATE
OF NEW YORK

YOUR PETITIONER RESPECTFULLY ALLEGES AND SHOWS:

1. THAT RODNEY L. HARRIS THE PETITIONER MAKES APPLICATION HEREIN ON HIS OWN FOR WRIT OF HABEAS CORPUS. THAT THE PLACE WHERE RODNEY L. HARRIS IS IMPRISONED AND RESTRAINED OF LIBERTY IS ERIE COUNTY HOLDING CENTER, 40 DELAWARE AVENUE, BUFFALO NEW YORK IN THE COUNTY OF ERIE. THAT THE PEOPLE BY WHOM PETITIONER IS DETAINED IS SUPERINTENDENT THOMAS J. DIINA. THAT THE IMPRISONMENT AND RESTRAINT OF SAID RODNEY L. HARRIS IS BY VIRTUE OF A MANDATE A COPY OF WHICH IS HERETO ANNEXED AND MARKED EXHIBIT [ ].

2. THAT THE CAUSE OR PRETENSE OF DETENTION OF SAID RODNEY L. HARRIS ACCORDING TO THE BEST KNOWLEDGE AND BELIEF OF THE PETITIONER IS ILLEGAL AND LACKS SUBJECT MATTER JURISDICTION.

3. THAT A COURT OR JUDGE OF THE UNITED STATES DOES NOT HAVE EXCLUSIVE JURISDICTION TO ORDER THE SAID RODNEY L. HARRIS RELEASED.

4. THAT THE DETENTION OF SAID RODNEY L. HARRIS IS ILLEGAL IN THAT: HONORABLE JOHN L. MICHALSKI SENTENCED PETITIONER ON OCTOBER 22, 2013. THE JUDGE IMPOSED A CONDITIONAL DISCHARGE (E-FELONY). THE PETITIONER WAS ALSO UNDER A PRIOR POST-RELEASE SUPERVISION IMPOSED ON JULY 6, 2010 BY HONORABLE MICHAEL D'AMICO WHICH BEGAN WHEN PETITIONER WAS RELEASED FROM A PRISON INCARCERATION WHICH ENDED ON MAY 9, 2012. PETITIONER WAS CONVICTED OF ROBBERY AND BURGLARY AND TWO (2) CONCURRENT TERMS OF 8-3-0 AND 8-3-0, WHEN E

IMPOSED. THE (PRS) IS A MANDATORY COMPONENT OF A SENTENCE FOR A CRIME PUNISHABLE FOR A DETERMINATE PRISON TERM. WHILE RELEASED ON THE (PRS) THE PETITIONER WAS SENTENCED. THE PETITIONER BELIEVES THE CONDITIONAL DISCHARGE (EFELONY) THAT WAS IMPOSED ON OCTOBER 22, 2013 SUPERCEDES THE (PRS) REVOCATION HEARING BY VIRTUE OF SUBJECT MATTER JURISDICTION AND EXPECTATION OF FINALITY OF SENTENCE IMPOSED BY HONORABLE JOHN L. MICHALSKI. THE PETITIONER BELIEVES THE DOUBLE JEOPARDY CLAUSE PROHIBITS ~~A~~ ADMINISTRATIVE AGENCY FROM HOLDING A HEARING.

5. THAT NO PREVIOUS APPLICATION HAS BEEN MADE FOR THE WRIT HEREIN ASKED FOR.

6 THAT NO APPEAL HAS BEEN TAKEN FROM ANY ORDER OR JUDGEMENT IN ANY ACTION OR PROCEEDINGS AGAINST SAID ERIE COUNTY HOLDING CENTER WHEREBY PETITIONER HAS BEEN IMPRISONED OR RESTRAINED AGAINST HIS LIBERTY.

WHEREFORE PETITIONER PRAYS THAT WRIT OF HABEAS CORPUS DIRECTED TO SAID ERIE COUNTY HOLDING CENTER ISSUE REQUIRING THE PRODUCTION OF RODNEY L. HARRIS BEFORE THE COURT FOR THE PURPOSE OF INQUIRING INTO THE IMPRISONMENT AND RESTRAINT OF SAID RODNEY L. HARRIS AND DELIVERING PETITIONER THEREFROM, PURSUANT TO STATUTE SUCH CASE MADE AND PROVIDED.

PETITIONER

STATE OF NEW YORK
COUNTY OF ERIE

RODNEY L. HARRIS, THE ABOVE NAMED PETITIONER BEING DULY SWORN SAYS THAT CONTENTS OF THE FOREGOING PETITION ARE WELL KNOWN TO HIM OWN KNOWLEDGE, EXCEPT AS TO THOSE MATTERS HE BELIEVES IT TO BE TRUE.

SWORN TO BEFORE ME
THIS 26 DAY OF
DEC. 2013

NOTARY PUBLIC

RONALD OVERTURF
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2014

WRIT OF HABEAS CORPUS

THE STATE OF NEW YORK EX. REL RODNEY L HARRIS
TO THE SUPERINTENDENT OF ERIE COUNTY HOLDING CENTER
THOMAS J. DIINA - RESPONDENT

WRIT OF HABEAS CORPUS
INDEX NO.

_____

WE COMMAND YOU, THAT YOU HAVE THE BODY OF RODNEY L. HARRIS BY YOU IMPRISONED AND DETAINED AS IT IS SAID TOGETHER WITH THE TIME AND CAUSE OF SUCH IMPRISONMENT AND DETENTION BY WHATEVER NAME THE SAID SUPERINTENDENT IF CALLED OR CHARGED BEFORE _____ JUSTICE OF THE SUPREME COURT TO BE HELD AT _____ AT _____ O'CLOCK IN THE _____ NOON OF THE DAY OF _____ 2013 TO DO AND RECEIVE WHAT SHALL THEN AND THERE BE CONSIDERED CONCERNING THE SAID ILLEGAL DETENTION AND HAVE YOU THEN AND THERE THIS WRIT.

WITNESS, HON. _____ JUSTICE, ONE OF THE JUSTICES OF OUR SAID COURT. THIS _____ 2013.

BY THE COURT

_____

CLERK

AFFIDAVIT OF SERVICE

STATE OF NEW YORK
COUNTY OF ERIE
CITY OF BUFFALO

I, RODNEY L. HARRIS BEING DULY SWORN DEPOSES AND SAY THAT I HAVE THIS 26 DAY OF DECEMBER 2013 FORWARDED VIA THE UNITED STATES POSTAL SERVICE COPIES OF THE FOLLOWING:

PETITION FOR WRIT OF HABEAS CORPUS
WRIT OF HABEAS CORPUS

TO

CHIEF CLERK
ERIE COUNTY COURT BUILDING
92 FRANKLIN ST.
BUFFALO NY 14202

DISTRICT ATTORNEY OF
ERIE COUNTY
25 DELAWARE AVENUE
BUFFALO NY 14202

SWORN TO BEFORE ME THIS
26 DAY OF DEC. 2013

COMMISSIONER OF DEEDS

RONALD OVERTURF
COMMISSIONER OF DEEDS
and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2014