

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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**KAH 09-00304**

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, AND GREEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK EX REL.  
CLAUDE GIGUERE, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

WARREN BARKLEY, SUPERINTENDENT, CAPE VINCENT  
CORRECTIONAL FACILITY, AND NEW YORK STATE  
DEPARTMENT OF CORRECTIONAL SERVICES,  
RESPONDENTS-RESPONDENTS.

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LINDA M. CAMPBELL, SYRACUSE, FOR PETITIONER-APPELLANT.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL),  
FOR RESPONDENTS-RESPONDENTS.

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Appeal from a judgment of the Supreme Court, Jefferson County  
(Hugh A. Gilbert, J.), entered January 15, 2009. The judgment  
dismissed the petition for a writ of habeas corpus.

It is hereby ORDERED that the judgment so appealed from is  
unanimously affirmed without costs.

Memorandum: Supreme Court properly dismissed the petition for a  
writ of habeas corpus. The challenges by petitioner to the  
determination of the Administrative Law Judge following his final  
parole revocation hearing "could have been addressed in the course of  
[an] administrative appeal," and thus petitioner failed to exhaust his  
administrative remedies (*People ex rel. Davis v New York State Bd. of  
Parole*, 263 AD2d 706, 707, lv denied 93 NY2d 819; see *People ex rel.  
Faison v Travis*, 277 AD2d 916, lv denied 96 NY2d 705; *People ex rel.  
Campbell v Fillion*, 255 AD2d 915). The constitutional claims raised by  
petitioner are not of the type "that would justify departing from the  
general rule requiring exhaustion of administrative remedies" (*People  
ex rel. Gibbs v New York Bd. of Parole*, 251 AD2d 718, 718, lv denied  
92 NY2d 814).

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court