

State of New York Court of Appeals

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 138

The People &c. ex rel. Erick Allen,
Appellant,

v.

Bruce Yelich, &c.,
Respondent.

Michael E. Cassidy, for appellant.
Brian D. Ginsberg, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed, without costs. On the record before us, there is no reason to disturb the determination of the Appellate Division that petitioner was not entitled to the relief sought (see Penal Law §§ 70.45 [5] [d]; 70.40

[3] [c]). As petitioner concedes, the Department of Corrections and Community Supervision was not bound by the New Jersey sentencing court's recommendation (see Jake v Herschberger, 173 F3d 1059, 1065 [7th Cir 1999]; Breeden v New Jersey Dept. of Corrections, 132 NJ 457, 465, 625 A2d 1125, 1129 [1993]).

* * * * *

Order affirmed, without costs, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided December 11, 2018