

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

People ex rel. Mischel v. Russell

2025 NY Slip Op 06715 (N.Y. Ct. App. 2025) · No. 2025-07894 · Decided December 3, 2025

SUMMARY

The New York Appellate Division, Second Department, affirmed the denial of a habeas corpus petition seeking the release of an incarcerated person diagnosed with recurring cervical cancer. The court held that the petitioner failed to show that the imprisonment was unlawful, that immediate release was an appropriate remedy for alleged inadequate medical care, or that the sentence was grossly disproportionate and unconstitutional.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Lara J. Genovesi, J.; Donna-Marie E. Golia, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	December 3, 2025
DOCKET	2025-07894
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the Supreme Court, Westchester County, denying a habeas corpus petition and dismissing the proceeding.
STANDARD OF REVIEW	The Appellate Division reviewed whether the habeas corpus petition stated a basis for immediate release and whether the petitioner demonstrated that Arjun's imprisonment was illegal.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	The People of the State of New York, ex rel. Richard E. Mischel, on behalf of Shamdai Arjun v. Eileen Russell

TOPICS

- habeas corpus
- post-conviction relief
- criminal procedure
- sentencing
- cruel and unusual punishment

PRACTICE AREAS

criminal procedure

post-conviction relief

habeas corpus

sentencing

constitutional law

QUESTIONS PRESENTED

1. Whether habeas corpus was available when the petitioner's allegations concerned medical needs and conditions of confinement rather than the legality of Arjun's imprisonment.
2. Whether alleged deliberate indifference to Arjun's medical needs entitled her to immediate release from custody through habeas corpus.
3. Whether Arjun's otherwise lawful sentence became grossly disproportionate and unconstitutional because she developed cancer while incarcerated.

HOLDINGS

1. Habeas corpus does not lie unless the appropriate relief is immediate release from restraint or imprisonment; it generally is unavailable when the petitioner challenges only conditions of confinement rather than the fact or legality of confinement.
2. A petitioner is not entitled to immediate release through habeas corpus merely by alleging that prison officials were deliberately indifferent to a prisoner's medical needs.
3. The petitioner failed to show that Arjun's lawful sentence became so grossly disproportionate to the offense because of her cancer diagnosis that it constituted unconstitutionally cruel and unusual punishment.

KEY QUOTATIONS

*“Habeas corpus does not lie unless the appropriate relief is immediate release from restraint or imprisonment” (*1)*

*“so grossly disproportionate to the offense[] [Arjun] committed as to amount to an unconstitutionally cruel and unusual punishment” (*1-*2)*

FACTUAL BACKGROUND

In 2019, Shamdai Arjun was convicted of murder in the second degree and sentenced to an indeterminate term of 22 years to life. While incarcerated, she was diagnosed with recurring cervical cancer. A habeas petition was filed on her behalf seeking release from custody based on her medical condition and alleged failure by prison officials to address her medical needs.

PROCEDURAL HISTORY

Richard E. Mischel commenced a habeas corpus proceeding on behalf of Shamdai Arjun, seeking her release from Bedford Hills Correctional Facility because of her recurring cervical cancer and alleged inadequacy of medical care. The Supreme Court, Westchester County, denied the petition and dismissed the proceeding on July 1, 2025. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People ex rel. Lucien v. Superintendent, Fishkill Corr. Facility, 190 AD3d 863, 865
- People ex rel. Tse v. Barometre, 188 AD3d 714, 714-715
- People ex rel. Kalikow v. Scully, 198 AD2d 250, 250-251
- People ex rel. DeLia v. Munsey, 26 NY3d 124, 127-128
- People ex rel. Kielly v. Russell, 237 AD3d 1217, 1217
- People v. Brann, 183 AD3d 758, 758
- People v. Ortiz, 64 NY2d 997, 999
- People v. Brathwaite, 263 AD2d 89, 92

OPINION

PER CURIAM.

People ex rel. Mischel v Russell (2025 NY Slip Op 06715) People ex rel. Mischel v Russell 2025 NY Slip Op 06715 Decided on December 3, 2025 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on December 3, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P.

LARA J. GENOVESI DONNA-MARIE E. GOLIA PHILLIP HOM, JJ. 2025-07894 (Index No. 64281/25) [*1]The People of the State of New York, ex rel. Richard E. Mischel, etc., on behalf of Shamdai Arjun, appellant, v Eileen Russell, etc., respondent. Richard E. Mischel, P.C., New York, NY (Richard E. Mischel pro se of counsel), for appellant. Letitia James, Attorney General, New York, NY (Judith N. Vale and Gillian Barna of counsel), for respondent.

DECISION & ORDER In a habeas corpus proceeding, the petitioner appeals from a judgment of the Supreme Court, Westchester County (Maurice Dean Williams, J.), dated July 1, 2025. The judgment denied the petition and dismissed the proceeding. ORDERED that the judgment is affirmed, without costs or disbursements.

In 2019, Shamdai Arjun was convicted of murder in the second degree and sentenced to an indeterminate term of imprisonment of 22 years to life. While incarcerated, Arjun was diagnosed with recurring cervical cancer.

The petitioner commenced this proceeding on behalf of Arjun for a writ of habeas corpus, seeking the release of Arjun from custody at Bedford Hills Correctional Facility. In a judgment dated July

1, 2025, the Supreme Court denied the petition and dismissed the proceeding.

The petitioner appeals. Habeas corpus does not lie unless the appropriate relief is immediate release from restraint or imprisonment (see *People ex rel. Lucien v Superintendent, Fishkill Corr. Facility, N.Y.S. DOCCS*, 190 AD3d 863, 865; *People ex rel. Tse v Barometre*, 188 AD3d 714, 714-715). Generally, habeas corpus does not lie where a petitioner seeks only to challenge the conditions of confinement, and does not challenge the fact of confinement itself (see *People ex rel.*

Kalikow v Scully, 198 AD2d 250, 250-251). The petitioner has failed to demonstrate that Arjun's imprisonment is illegal (see CPLR 7002[a]; 7010[a]; *People ex rel. DeLia v Munsey*, 26 NY3d 124, 127-128; *People ex rel. Kielly v Russell*, 237 AD3d 1217, 1217). Contrary to the petitioner's contention, he has not demonstrated that prison officials have been deliberately indifferent to Arjun's medical needs or that Arjun is entitled to immediate release from custody as a remedy for any failure to address her medical needs (see *People v Brann*, 183 AD3d 758, 758; *People ex rel.*

Kalikow v Scully, 198 AD2d at 250-251). To the extent the petitioner contends that Arjun's lawful sentence became grossly excessive due to her cancer diagnosis, the petitioner has not made the requisite showing that the sentence is "so grossly disproportionate to the offense[] [Arjun] committed as to amount to an [*2]unconstitutionally cruel and unusual punishment" (*People v Ortiz*, 64 NY2d 997, 999; see *People v Brathwaite*, 263 AD2d 89, 92).

Accordingly, the Supreme Court properly denied the petition and dismissed the proceeding. DILLON, J.P., GENOVESI, GOLIA and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court