

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____	x	
PAUL KAMIENSKI,	x	
	x	
Petitioner,	x	
	x	Civil Action No. 02-3091
v.	x	
	x	WRIT OF HABEAS CORPUS
ROY HENDRICKS, et al.,	x	
	x	
Respondents.	x	
_____	x	

CHESLER, U.S.D.J.

THIS MATTER having come before the Court on the issuance of the Mandate by the United States Court of Appeals for the Third Circuit on July 10, 2009; and

IT APPEARING that Petitioner Paul Kamienski (“Kamienski”) initiated this action in the United States District Court for the District of New Jersey pursuant to 28 U.S.C. § 2254 petitioning this Court for a writ of habeas corpus with respect to his judgment of conviction issued by the Superior Court of New Jersey, Ocean County, on charges of first degree murder in violation of N.J.S. 2C:11-3a(1) and (2) and of felony murder in violation of N.J.S. 2C:11-3a(3) in the matter of *State of New Jersey v. Joseph Marzeno, et al*; and it further

APPEARING that on July 26, 2006, this Court issued an order denying Kamienski’s petition for a writ of habeas corpus; and it further

APPEARING that Kamienski appealed the Court’s July 26, 2006 Order to the Third Circuit; and it further

APPEARING that on May 28, 2009, the Third Circuit entered a judgment and order

reversing the District Court's July 26, 2006 Order and remanding this action with instructions to this Court to issue the writ of habeas corpus in accordance with the Third Circuit's accompanying opinion, which found that the challenged convictions for first degree murder and felony murder were not based on sufficient evidence; and it further

APPEARING that on July 10, 2009, the Third Circuit issued its Mandate on the May 29, 2009 Order and Judgment; and it further

APPEARING that by Order of July 24, 2009, the Third Circuit denied the motion filed by Respondent/Appellee the State of New Jersey to stay and/or recall the Mandate; therefore,

IT IS on this 30th day of July, 2009,

ORDERED that Kamienski's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be and hereby is **GRANTED** to the extent he challenges his convictions on the charges of first degree murder and felony murder in the matter of *State of New Jersey v. Joseph Marzeno, et al.*; and it is further

ORDERED that Kamienski's Judgment of Conviction on said charges be and hereby is **VACATED**; and it is further

ORDERED that Kamienski shall be released from further confinement on said charges; and it is further

ORDERED that Kamienski's conviction on said charges shall be expunged from all records maintained by the State of New Jersey.

s/Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge