

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

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**CA 09-01444**

PRESENT: SCUDDER, P.J., MARTOCHE, LINDLEY, GREEN, AND GORSKI, JJ.

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IN THE MATTER OF MITCHELL KALWASINSKI,  
PETITIONER-APPELLANT,

V

ORDER

BRIAN FISCHER, COMMISSIONER, NEW YORK STATE  
DEPARTMENT OF CORRECTIONAL SERVICES,  
RESPONDENT-RESPONDENT.

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MITCHELL KALWASINSKI, PETITIONER-APPELLANT PRO SE.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (MARCUS J. MASTRACCO OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from a judgment (denominated order) of the Supreme Court,  
Wyoming County (Mark H. Dadd, A.J.), entered April 6, 2009 in a  
proceeding pursuant to CPLR article 78. The judgment granted  
respondent's motion to dismiss the petition as untimely.

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

Entered: April 30, 2010

Patricia L. Morgan  
Clerk of the Court