

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

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TP 23-01548

PRESENT: LINDLEY, J.P., MONTOUR, OGDEN, AND GREENWOOD, JJ.

IN THE MATTER OF THEODORE FEDOR, PETITIONER,

V

MEMORANDUM AND ORDER

PRISCILLA LEDBETTER, CENTRAL OFFICE DIRECTOR
OF TEMPORARY RELEASE PROGRAMS OF NEW YORK
STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION, RESPONDENT.

KAREN MURTAGH, EXECUTIVE DIRECTOR, PRISONERS' LEGAL SERVICES OF NEW
YORK, BUFFALO (ANDREW STECKER OF COUNSEL), FOR PETITIONER.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (RACHEL RAIMONDI OF COUNSEL),
FOR RESPONDENT.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Orleans County [Sanford A. Church, A.J.], entered July 25, 2023) to review a determination of respondent. The determination revoked petitioner's participation in the Temporary Work Release Program.

It is hereby ORDERED that the determination is unanimously confirmed without costs and the petition is dismissed.

Memorandum: Petitioner commenced this CPLR article 78 proceeding seeking to annul the determination to remove him from the work release program. Petitioner's contention that the temporary release committee failed to provide a statement of the evidence relied on (*see* 7 NYCRR 1904.2 [h] [7]) is not properly before us because he did not raise that claim in his petition (*see Matter of Kelly v Annucci*, 193 AD3d 1169, 1171 [3d Dept 2021]; *Matter of Burroughs v Colvin*, 170 AD3d 1643, 1643-1644 [4th Dept 2019]). Contrary to petitioner's further contention, the determination is supported by substantial evidence (*see Matter of Marciano v Goord*, 38 AD3d 217, 218 [1st Dept 2007]; *see generally* 300 Gramatan Ave. Assoc. v State Div. of Human Rights, 45 NY2d 176, 180 [1978]).

Entered: March 15, 2024

Ann Dillon Flynn
Clerk of the Court