

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

916

CA 16-01932

PRESENT: CENTRA, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ.

IN THE MATTER OF CHARLES PETERSON,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

TINA STANFORD, CHAIRWOMAN, NEW YORK STATE
DIVISION OF PAROLE, ET AL.,
RESPONDENTS-RESPONDENTS.

CHARLES PETERSON, PETITIONER-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF
COUNSEL), FOR RESPONDENTS-RESPONDENTS.

Appeal from a judgment (denominated order) of the Supreme Court, Erie County (Russell P. Buscaglia, A.J.), entered September 23, 2016 in a proceeding pursuant to CPLR article 78. The judgment denied the relief sought in the petition.

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

Memorandum: Petitioner commenced this CPLR article 78 proceeding seeking to annul the determination of the New York State Board of Parole (Board) denying his release to parole supervision. Contrary to petitioner's contention, there is no indication in the record that the Board relied on incorrect information concerning his criminal history in denying his request for parole release (*see Matter of Boccadisi v Stanford*, 133 AD3d 1169, 1170-1171; *Matter of Rivers v Evans*, 119 AD3d 1188, 1188-1189). Contrary to petitioner's further contention, Supreme Court properly denied the petition inasmuch as the Board considered the required statutory factors and adequately set forth its reasons for denying petitioner's application (*see Matter of Siao-Pao v Dennison*, 11 NY3d 777, 778), and inasmuch as the Board's determination does not exhibit "irrationality bordering on impropriety" (*Matter of Kenefick v Sticht*, 139 AD3d 1380, 1381, lv denied 28 NY3d 902). Petitioner's additional contentions—that respondents lacked jurisdiction over him by virtue of improper procedures and that he was denied due process of law by the Board's failure to follow its statutory mandates—were not raised in his administrative appeal, and petitioner therefore has failed to exhaust his administrative remedies with respect to them (*see Matter of Karlin v Cully*, 104 AD3d 1285,

1286; *Matter of Secore v Mantello*, 176 AD2d 1244, 1244).

Entered: June 30, 2017

Frances E. Cafarell
Clerk of the Court