

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

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**CA 13-00415**

PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND DEJOSEPH, JJ.

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IN THE MATTER OF ROBERT RAFFIANI,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BRIAN FISCHER, COMMISSIONER, NEW YORK STATE  
DEPARTMENT OF CORRECTIONS AND COMMUNITY  
SUPERVISION, RESPONDENT-RESPONDENT.

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WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (LEAH R. NOWOTARSKI OF  
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (KATHLEEN M. ARNOLD OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Wyoming County (Mark  
H. Dadd, A.J.), entered February 4, 2013 in a CPLR article 78  
proceeding. The judgment dismissed the petition.

It is hereby ORDERED that said appeal is unanimously dismissed  
without costs.

Memorandum: Petitioner appeals from a judgment dismissing his  
petition pursuant to CPLR article 78 seeking to annul the  
determination of the Parole Board denying him release to community  
supervision. Because petitioner has again appeared before the Parole  
Board during the pendency of this appeal, and was again denied release  
to community supervision, we dismiss the appeal as moot (*see Matter of  
Suarez v Fischer*, 112 AD3d 1344, 1344; *Matter of Sanchez v Evans*, 111  
AD3d 1315, 1315). Contrary to petitioner's contention, this matter  
does not fall within the exception to the mootness doctrine (*see  
Sanchez*, 111 AD3d at 1315; *see generally Matter of Hearst Corp. v  
Clyne*, 50 NY2d 707, 714-715).

Entered: June 13, 2014

Frances E. Cafarell  
Clerk of the Court