

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

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**CA 12-02141**

PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, CARNI, AND WHALEN, JJ.

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IN THE MATTER OF RONNIE COVINGTON,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

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

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RONNIE COVINGTON, PETITIONER-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (MARCUS J. MASTRACCO OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Seneca County  
(Dennis F. Bender, A.J.), entered June 6, 2012 in a CPLR article 78  
proceeding. The judgment dismissed the petition.

It is hereby ORDERED that the judgment so appealed from is  
unanimously reversed on the law without costs, the motion is denied,  
and the petition is reinstated.

Memorandum: Supreme Court erred in granting respondent's motion  
to dismiss the CPLR article 78 petition as time-barred (see CPLR 3211  
[a] [5]). The applicable four-month statute of limitations pursuant  
to CPLR 217 did not begin to run until petitioner "received notice of  
the final administrative determination" (*Matter of Jackson v Fischer*,  
67 AD3d 1207, 1208; see *Matter of Biondo v New York State Bd. of  
Parole*, 60 NY2d 832, 834), and respondent failed to meet his burden of  
establishing that petitioner received such notice more than four  
months before commencing the instant proceeding (see *Jackson*, 67 AD3d  
at 1208; *Matter of Chrysler v Goord*, 49 AD3d 1342, 1343).

Entered: February 6, 2015

Frances E. Cafarell  
Clerk of the Court