

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

628

KAH 15-01205

PRESENT: SMITH, J.P., CENTRA, CARNI, CURRAN, AND SCUDDER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
STEPHAN HOUSTON, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANTHONY ANNUCCI, ACTING COMMISSIONER, NEW YORK
STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION, RESPONDENT-RESPONDENT.

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

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

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered May 13, 2015 in a habeas corpus
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 for a writ of habeas corpus in which he sought release from
state prison on the ground that his parole revocation hearing was not
held within 90 days of his waiver of his right to a preliminary
hearing (see Executive Law § 259-i [3] [f] [i]; *People ex rel. Gray v
Campbell*, 241 AD2d 723, 724). Inasmuch as petitioner has again been
released to parole supervision, this appeal is moot (see *People ex
rel. Yourdon v Semrau*, 133 AD3d 1351, 1351; *People ex rel. Aikens v
Brown*, 103 AD3d 1212, 1213). We conclude that the exception to the
mootness doctrine does not apply (see *Yourdon*, 133 AD3d at 1351;
Brown, 103 AD3d at 1213; see generally *Matter of Hearst Corp. v Clyne*,
50 NY2d 707, 714-715).

Entered: July 1, 2016

Frances E. Cafarell
Clerk of the Court