

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

895

KAH 15-00416

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

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
RICHIE STOKES, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

NEW YORK STATE DIVISION OF PAROLE AND MS. DOLCE,
SUPERINTENDENT, ORLEANS CORRECTIONAL FACILITY,
RESPONDENTS-RESPONDENTS.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ALAN WILLIAMS OF
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (KATE H. NEPVEU OF
COUNSEL), FOR RESPONDENTS-RESPONDENTS.

Appeal from a judgment (denominated order) of the Supreme Court, Orleans County (James P. Punch, A.J.), entered November 19, 2014 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. The appeal has been rendered moot by petitioner's release from custody upon reaching his maximum expiration date (*see People ex rel. Smith v Cully*, 112 AD3d 1316, 1317, *lv denied* 22 NY3d 864; *People ex rel. Reynolds v Artus*, 103 AD3d 1208, 1208-1209; *People ex rel. Baron v New York State Dept. of Corr.*, 94 AD3d 1410, 1410, *lv denied* 19 NY3d 807), and the exception to the mootness doctrine does not apply (*see Reynolds*, 103 AD3d at 1209; *Baron*, 94 AD3d at 1410; *see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715). While this Court has the power to convert the habeas corpus proceeding into a CPLR article 78 proceeding, we decline to do so under the circumstances of this case (*see People ex rel. Walker v Dolce*, 125 AD3d 1305, 1305, *lv denied* 25 NY3d 910; *People ex rel. Green v Smith*, 119 AD3d 1451, 1452).

Entered: November 10, 2016

Frances E. Cafarell
Clerk of the Court