

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

380

CA 17-00080

PRESENT: CENTRA, J.P., CARNI, DEJOSEPH, TROUTMAN, AND WINSLOW, JJ.

IN THE MATTER OF JEFF BRISBANE,
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 (ADAM W. KOCH OF
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (BRIAN D. GINSBERG OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered November 10, 2016 in a proceeding
pursuant to CPLR article 78. 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
CPLR article 78 petition seeking to annul the Parole Board's
determination denying his request for release to parole supervision.
The Attorney General has advised this Court that, subsequent to that
denial and during the pendency of this appeal, petitioner reappeared
before the Parole Board in January 2018, at which time he was given an
" 'open date' " for release. In view of that reappearance, this
appeal must be dismissed as moot (*see Matter of Hill v Annucci*, 149
AD3d 1540, 1541 [4th Dept 2017]; *Matter of Dobranski v Alexander*, 69
AD3d 1091, 1091 [4th Dept 2010]). Contrary to petitioner's
contention, the exception to the mootness doctrine does not apply (*see*
generally Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714-715
[1980]).

Entered: March 23, 2018

Mark W. Bennett
Clerk of the Court