

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

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CA 21-00334

PRESENT: WHALEN, P.J., NEMOYER, CURRAN, WINSLOW, AND BANNISTER, JJ.

IN THE MATTER OF GESHAWN CRITTLETON,
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.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL), FOR
RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered February 23, 2021 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
petition pursuant to CPLR article 78 seeking to annul the
determination of the Board of Parole denying his request for release
to parole supervision. The Attorney General has advised this Court
that, subsequent to that denial, petitioner reappeared before the
Board of Parole in December 2021, at which time he was given an "open
date" for release. Consequently, this appeal must be dismissed as
moot (*see Matter of Brisbane v Annucci*, 159 AD3d 1579, 1580 [4th Dept
2018]; *Matter of Hill v Annucci*, 149 AD3d 1540, 1541 [4th Dept 2017]).
Contrary to petitioner's contention, the exception to the mootness
doctrine does not apply (*see Hill*, 149 AD3d at 1541; *see generally*
Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714-715 [1980]).

Entered: January 28, 2022

Ann Dillon Flynn
Clerk of the Court