

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

714

CA 21-00258

PRESENT: SMITH, J.P., PERADOTTO, NEMOYER, CURRAN, AND BANNISTER, JJ.

IN THE MATTER OF THE APPLICATION FOR DISCHARGE
OF JOSEPH S., FROM CENTRAL NEW YORK PSYCHIATRIC
CENTER PURSUANT TO MENTAL HYGIENE LAW SECTION
10.09, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK, NEW YORK STATE OFFICE OF
MENTAL HEALTH AND NEW YORK STATE DEPARTMENT
OF CORRECTIONS AND COMMUNITY SUPERVISION,
RESPONDENTS-RESPONDENTS.

PAUL B. WATKINS, FAIRPORT, FOR PETITIONER-APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (KATHLEEN M. TREASURE OF
COUNSEL), FOR RESPONDENTS-RESPONDENTS.

Appeal from an order of the Oneida County Court (Gregory J. Amoroso, A.J.), entered April 29, 2020 in a proceeding pursuant to Mental Hygiene Law article 10. The order, inter alia, continued petitioner's commitment to a secure treatment facility.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner appeals from an order determining, inter alia, that he is a dangerous sex offender requiring confinement pursuant to Mental Hygiene Law article 10. While this appeal was pending, and based on subsequent orders releasing petitioner to a regimen of strict and intensive supervision and treatment, petitioner withdrew his contention on appeal that respondents failed to establish by clear and convincing evidence that he had such an inability to control his behavior that he was likely to commit sex offenses if not confined to a secure treatment facility. With regard to petitioner's remaining contention on appeal, we affirm for reasons stated in that part of County Court's decision and order determining that petitioner suffers from a mental abnormality. We add only that the subsequent orders do not render the remaining issue on appeal moot (*see* Mental Hygiene Law § 10.09 [b]; *see generally* *Matter of Groves v State of New York*, 124 AD3d 1213, 1213 [4th Dept 2015]).

Entered: September 30, 2022

Ann Dillon Flynn
Clerk of the Court