

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

142

CA 22-00445

PRESENT: WHALEN, P.J., LINDLEY, CURRAN, BANNISTER, AND MONTOUR, JJ.

IN THE MATTER OF JOSE ORTIZ,
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 (SARAH L. ROSENBLUTH OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered February 7, 2022 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 2023 and was again denied release.
Consequently, this appeal must be dismissed as moot (*see Matter of
Colon v Annucci*, 177 AD3d 1393, 1394 [4th Dept 2019]; *Matter of Hill v
Annucci*, 149 AD3d 1540, 1541 [4th Dept 2017]). Contrary to
petitioner's contention, this matter does not fall within the
exception to the mootness doctrine (*see Colon*, 177 AD3d at 1394; *see
generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715
[1980]).

Entered: March 17, 2023

Ann Dillon Flynn
Clerk of the Court