

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D25903
O/kmg

____AD3d____

Submitted - December 21, 2009

PETER B. SKELOS, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2009-06031

DECISION & ORDER

In the Matter of Jack Lewis, appellant,
v Felix Rosa, etc., respondent.

(Index No. 30/09)

Jack Lewis, Beacon, N.Y., appellant pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Michael S. Belohlavek and
Cecelia C. Chang of counsel; Juliya Litichevskaya on the brief), for respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of the New York State Division of Parole dated March 24, 2008, denying the petitioner's application to be released to parole, the appeal is from a judgment of the Supreme Court, Dutchess County (Pagones, J.), dated April 21, 2009, which denied the petition and dismissed the proceeding.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

In challenging a determination made by the New York State Division of Parole on March 24, 2008, the petitioner alleged that he was entitled to a de novo hearing. Since that time, he has had another parole hearing, and his request for release has been denied. Since he is not being held under the determination he now challenges, this appeal has been rendered academic (*see Matter of Flanders v New York State Div. of Parole*, 14 AD3d 703; *Matter of Lloyd v New York State Div. of Parole*, 217 AD2d 548, 549).

SKELOS, J.P., BALKIN, LEVENTHAL and LOTT, JJ., concur.

ENTER:


James Edward Pelzer

January 26, 2010

MATTER OF LEWIS v ROSA

Clerk of the Court

January 26, 2010

MATTER OF LEWIS v ROSA