

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

D28951
G/kmg

_____AD3d_____

Submitted - October 21, 2010

A. GAIL PRUDENTI, P.J.
JOSEPH COVELLO
ANITA R. FLORIO
ARIEL E. BELEN, JJ.

2009-11284

DECISION & ORDER

In the Matter of Douglas A. Walters, appellant, v
Angelo A. Delligatti, etc., et al., respondents.

(Index No. 9465/09)

Raiser & Kenniff, P.C., Mineola, N.Y. (Steven M. Raiser of counsel), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Cristin N. Connell, Joanna Hershey, and Patrick J. Finley of counsel), respondent pro se.

In a proceeding pursuant to CPLR article 78, inter alia, in the nature of mandamus to compel Angelo A. Delligatti, a Justice of the District Court, Criminal Part B, Nassau County, to reinstate the petitioner's driver's license, which was suspended on March 27, 2009, the petitioner appeals from a judgment of the Supreme Court, Nassau County (Brandveen, J.), dated July 20, 2009, which denied the petition and, in effect, dismissed the proceeding.

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

As the Nassau County District Court has vacated the suspension of the petitioner's driver's license, any determination by this Court with respect to the instant proceeding will not directly affect the rights of the parties (*see Festa v Festa*, 76 AD3d 1047; *Matter of Milcon Constr. Corp. v Freeport Union Free School Dist.*, 74 AD3d 1206, 1207). Since the matter does not warrant invoking the exception to the mootness doctrine (*see Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714), we dismiss the appeal as academic.

PRUDENTI, P.J., COVELLO, FLORIO and BELEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

November 9, 2010

MATTER OF WALTERS v DELDIGATTI