

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

1307

KAH 11-02008

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND WHALEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
JAMES KEYES, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

SIBATU KHAHAIFA, SUPERINTENDENT, ORLEANS
CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT.

CHARLES J. GREENBERG, AMHERST, FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (PAUL GROENWEGEN OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment (denominated order) of the Supreme Court, Orleans County (James P. Punch, A.J.), dated July 18, 2011 in a habeas corpus proceeding. The judgment dismissed the petition.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Petitioner's appeal from the judgment dismissing his petition for a writ of habeas corpus has been rendered moot inasmuch as he has been released to parole supervision (*see People ex rel. Baron v New York State Dept. of Corrections*, 94 AD3d 1410, 1410, *lv denied* 19 NY3d 807; *see also People ex rel. Graham v Fischer*, 70 AD3d 1381, 1381-1382), and the exception to the mootness doctrine does not apply herein (*see Baron*, 94 AD3d at 1410; *Graham*, 70 AD3d at 1382; *see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715). Moreover, "[a]lthough this Court has the power to convert a habeas corpus proceeding into a CPLR article 78 proceeding . . . , we decline to do so because we do not consider it appropriate on this record" (*People ex rel. Brown v McCoy*, 266 AD2d 805, 805, *lv denied* 94 NY2d 760).

Entered: December 21, 2012

Frances E. Cafarell
Clerk of the Court