

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

1273

**KAH 12-01904**

PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, LINDLEY, AND SCONIERS, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK EX REL.  
NORMAN JENKINS, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

RIKERS ISLAND CORRECTIONAL FACILITY WARDEN AND  
NEW YORK STATE DIVISION OF PAROLE,  
RESPONDENTS-RESPONDENTS.

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ERICKSON WEBB SCOLTON & HAJDU, LAKEWOOD (LYLE T. HAJDU OF COUNSEL),  
FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (KATE H. NEPVEU OF  
COUNSEL), FOR RESPONDENTS-RESPONDENTS.

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Appeal from a judgment (denominated decision and order) of the Supreme Court, Orleans County (James P. Punch, A.J.), dated August 9, 2012 in a habeas corpus proceeding. The judgment denied the petition.

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

Memorandum: On appeal from a judgment denying his petition for a writ of habeas corpus, petitioner contends that the actions of the Parole Board violated his right to due process. While this appeal was pending, however, petitioner was released to parole supervision, and thus this appeal has been rendered moot (*see People ex rel. Briecke v New York State Dept. of Corr. Servs.*, 107 AD3d 1459, 1459; *People ex rel. Moore v Lempke*, 101 AD3d 1665, 1665-1666, *lv denied* 20 NY3d 863). Although petitioner contends otherwise, the exception to the mootness doctrine does not apply because, inter alia, the issue he raises on appeal is not likely to recur (*see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: December 27, 2013

Frances E. Cafarell  
Clerk of the Court