

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

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CA 15-01953

PRESENT: WHALEN, P.J., SMITH, CARNI, LINDLEY, AND NEMOYER, JJ.

IN THE MATTER OF KIAMBU PORTER,
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 (ADAM W. KOCH OF
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered October 27, 2015 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
petition seeking to annul the Parole Board's determination denying him
parole release. We conclude that "[t]his appeal must be dismissed as
moot because the determination expired during the pendency of this
appeal, and the Parole Board denied petitioner's subsequent request
for parole release" (*Matter of Patterson v Berbary*, 1 AD3d 943, 943,
appeal dismissed and lv denied 2 NY3d 731; see *Matter of Robles v*
Evans, 100 AD3d 1455, 1455). Contrary to petitioner's contention, the
exception to the mootness doctrine does not apply here (see *Matter of*
Sanchez v Evans, 111 AD3d 1315, 1315; see generally *Matter of Hearst*
Corp. v Clyne, 50 NY2d 707, 714-715).

Entered: March 31, 2017

Frances E. Cafarell
Clerk of the Court