

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

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CA 15-02091

PRESENT: WHALEN, P.J., LINDLEY, NEMOYER, CURRAN, AND TROUTMAN, JJ.

IN THE MATTER OF THOMAS HILL,
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 (NORMAN P. EFFMAN OF
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (WILLIAM E. STORRS OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered November 13, 2015 in a CPLR article
78 proceeding. 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
CPLR article 78 petition seeking to annul the Parole Board's
determination denying his request for release to parole supervision.
The Attorney General has advised this Court that, subsequent to that
denial and during the pendency of this appeal, petitioner reappeared
before the Parole Board in December 2016, at which time he was given
an " 'open date' " for release. "In view of his reappearance, the
appeal must be dismissed as moot," regardless whether that open date
has since been suspended (*Matter of Dobranski v Alexander*, 69 AD3d
1091, 1091; see *Matter of Brockington v Fischer*, 119 AD3d 1372, 1373).
Contrary to petitioner's contention, the exception to the mootness
doctrine does not apply (see generally *Matter of Hearst Corp. v Clyne*,
50 NY2d 707, 714-715).

Entered: April 28, 2017

Frances E. Cafarell
Clerk of the Court