

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

1068

CA 19-00008

PRESENT: SMITH, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND WINSLOW, JJ.

IN THE MATTER OF JOSE COLON, 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.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (JONATHAN D. HITSOUS OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County
(Michael M. Mohun, A.J.), entered October 25, 2018 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 commenced this CPLR article 78 proceeding
challenging the denial of his application for release to parole
supervision after a hearing in October 2017. The Attorney General has
advised this Court that, subsequent to that denial, petitioner
reappeared before the Board of Parole in October 2019 and was again
denied release. Consequently, this appeal must be dismissed as moot
(*see Matter of Hill v Annucci*, 149 AD3d 1540, 1541 [4th Dept 2017];
Matter of Sanchez v Evans, 111 AD3d 1315, 1315 [4th Dept 2013]).
Contrary to petitioner's contention, this matter does not fall within
the exception to the mootness doctrine (*see Matter of Porter v*
Annucci, 148 AD3d 1779, 1779 [4th Dept 2017]; *see generally Matter of*
Hearst Corp. v Clyne, 50 NY2d 707, 714-715 [1980]).

Entered: November 15, 2019

Mark W. Bennett
Clerk of the Court