

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

1331

CA 15-00461

PRESENT: SCUDDER, P.J., SMITH, VALENTINO, WHALEN, AND DEJOSEPH, JJ.

IN THE MATTER OF ROBERT CARDEW,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANTHONY ANNUCCI, COMMISSIONER, NEW YORK STATE
DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION, RESPONDENT-RESPONDENT.

ROBERT CARDEW, PETITIONER-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (MARTIN A. HOTVET OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment (denominated order) of the Supreme Court, Orleans County (James P. Punch, A.J.), entered January 16, 2015 in a proceeding pursuant to CPLR article 78. The judgment denied the petition.

It is hereby ORDERED that said appeal insofar as it concerns petitioner's work assignment is unanimously dismissed and the judgment is otherwise affirmed without costs.

Memorandum: Petitioner, a prison inmate, appeals from a judgment denying his petition seeking to annul the determination denying various grievances filed by him. We note at the outset that the Attorney General has advised this Court that, after petitioner commenced this proceeding, he was given a new work assignment. Thus, petitioner's appeal is moot with respect to the grievances concerning his placement as a housing porter, "[i]nasmuch as petitioner is no longer aggrieved by the administrative action that was the subject of his grievance[s]" (*Matter of Patel v New York State Dept. of Corr. Servs.*, 84 AD3d 1668, 1669; see *Matter of Campbell v Fischer*, 105 AD3d 1222, 1222, lv denied 22 NY3d 853; *Matter of Parrilla v Donelli*, 25 AD3d 1046, 1047; *Matter of McKenna v Goord*, 245 AD2d 1074, 1075, lv denied 91 NY2d 812). Upon our review of the record, we conclude that petitioner failed to demonstrate that the denials of his remaining grievances were affected by an error of law or were arbitrary and capricious (see generally *Matter of Kalwasinski v Fischer*, 68 AD3d 1722, 1723).

Entered: December 23, 2015

Frances E. Cafarell
Clerk of the Court