

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

480

TP 09-02471

PRESENT: MARTOCHE, J.P., CENTRA, FAHEY, PERADOTTO, AND PINE, JJ.

IN THE MATTER OF ATO CLYBURN, PETITIONER,

V

ORDER

GREGORY J. KADIEN, SUPERINTENDENT, GOWANDA CORRECTIONAL FACILITY, AND BRIAN FISCHER, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENTS.

ATO CLYBURN, PETITIONER PRO SE.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL), FOR RESPONDENTS.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Erie County [John L. Michalski, A.J.], entered December 2, 2009) to review a determination of respondents. The determination found after a Tier III hearing that petitioner had violated an inmate rule.

It is hereby ORDERED that said proceeding is unanimously dismissed without costs as moot (see *Matter of Free v Coombe*, 234 AD2d 996).

Entered: April 30, 2010

Patricia L. Morgan
Clerk of the Court