

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

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KAH 11-02376

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND SCONIERS, JJ.

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
JAMES PEARCE, PETITIONER-APPELLANT,

V

ORDER

ROBERT A. KIRKPATRICK, SUPERINTENDENT, WENDE
CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT.
(APPEAL NO. 2.)

THOMAS E. ANDRUSCHAT, EAST AURORA, FOR PETITIONER-APPELLANT.

Appeal from a judgment (denominated order) of the Supreme Court, Erie County (Penny M. Wolfgang, J.), dated October 18, 2010 in a proceeding pursuant to CPLR article 70. The judgment, insofar as appealed from, denied the petition for a writ of habeas corpus.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Loafin' Tree Rest. v Pardi* [appeal No. 1], 162 AD2d 985).

Entered: April 20, 2012

Frances E. Cafarell
Clerk of the Court