

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

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CA 12-02396

PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, SCONIERS, AND DEJOSEPH, JJ.

IN THE MATTER OF JAMES ADAMS,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

SUPERINTENDENT BOLLINIER, FIVE POINTS
CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT.

JAMES ADAMS, PETITIONER-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (MARCUS J. MASTRACCO OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Seneca County
(Dennis F. Bender, A.J.), dated July 5, 2012 in a proceeding pursuant
to CPLR article 78. The judgment denied and dismissed the petition.

It is hereby ORDERED that the judgment so appealed from is
unanimously affirmed without costs.

Memorandum: Petitioner commenced this CPLR article 78 proceeding
seeking to annul the determination that he violated a prison
disciplinary rule. Supreme Court properly denied the petition.
Inasmuch as petitioner has served the entirety of the imposed 30-day
penalty, his contention that the penalty was unlawful is moot (see
Matter of Ellison v Coughlin, 191 AD2d 778, 778-779), and we conclude
that the exception to the mootness doctrine does not apply (*cf. id.* at
779; see generally *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-
715). Petitioner's contention that the absence of the hearing
transcript precluded the court's meaningful review is not preserved
for our review and, in any event, is without merit (see *Matter of*
Sessoms v Commissioner of Correctional Servs., 63 AD3d 1400, 1400).
We reject petitioner's further contention that the absence of the
hearing transcript from the record on appeal prevents this Court from
conducting a meaningful appellate review, inasmuch as the missing
transcript "is not relevant to the issues before us" (*Matter of Gold v*
Masse, 256 AD2d 981, 981-982, lv denied 93 NY2d 803; see *Matter of*
Borrero v Goord, 268 AD2d 853, 854).

Entered: June 13, 2014

Frances E. Cafarell
Clerk of the Court