

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

88

**CA 25-00114**

PRESENT: CURRAN, J.P., OGDEN, GREENWOOD, AND HANNAH, JJ.

---

IN THE MATTER OF ANTHONY FLOWERS,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

DANIEL F. MARTUSCELLO, III, COMMISSIONER,  
NEW YORK STATE DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION,  
RESPONDENT-RESPONDENT.

---

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (NORMAN P. EFFMAN OF  
COUNSEL), FOR PETITIONER-APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (RACHEL RAIMONDI OF COUNSEL),  
FOR RESPONDENT-RESPONDENT.

---

Appeal from a judgment of the Supreme Court, Wyoming County  
(Melissa Lightcap Cianfrini, A.J.), entered January 7, 2025, in a  
proceeding pursuant to CPLR article 78. The judgment dismissed the  
petition.

It is hereby ORDERED that said appeal is unanimously dismissed  
without costs.

Memorandum: Petitioner appeals from a judgment dismissing his  
petition pursuant to CPLR article 78 seeking to annul the  
determination of the Parole Board denying him parole release. We  
conclude that "[t]his appeal must be dismissed as moot because the  
determination expired during the pendency of this appeal, and the  
Parole Board denied petitioner's subsequent request for parole  
release" (*Matter of Porter v Annucci*, 148 AD3d 1779, 1779 [4th Dept  
2017]). The exception to the mootness doctrine does not apply here  
(see *Matter of Bethea v Annucci*, 151 AD3d 1674, 1675 [4th Dept 2017];  
*Matter of Brunner v Speckard*, 214 AD2d 1040, 1040 [4th Dept 1995], *lv*  
*denied* 86 NY2d 707 [1995]; see generally *Matter of Hearst Corp. v*  
*Clyne*, 50 NY2d 707, 714-715 [1980]).

Entered: April 24, 2026

Ann Dillon Flynn  
Clerk of the Court