

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

171

CA 25-00429

PRESENT: BANNISTER, J.P., MONTOUR, GREENWOOD, NOWAK, AND HANNAH, JJ.

IN THE MATTER OF MARIO ZANGHI, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

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

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (LEAH R. NOWOTARSKI 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
(Donald G. O'Geen, A.J.), entered February 25, 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
CPLR article 78 petition seeking to annul the determination of the
Parole Board that denied his request for release to parole
supervision. Following that denial and during the pendency of this
appeal, petitioner reappeared before the Parole Board in September
2025, and was subsequently denied parole. Consequently, this appeal
must be dismissed as moot (*see Matter of Lopez v Annucci*, 229 AD3d
1124, 1125 [4th Dept 2024]; *Matter of Hill v Annucci*, 149 AD3d 1540,
1541 [4th Dept 2017]). Contrary to petitioner's contention, the
exception to the mootness doctrine does not apply (*see Matter of
Lopez-Contreras v Annucci*, 221 AD3d 1580, 1580 [4th Dept 2023]; *see
generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715
[1980]).

Entered: June 5, 2026

Ann Dillon Flynn
Clerk of the Court