

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

1120

CA 13-01692

PRESENT: SCUDDER, P.J., FAHEY, CARNI, LINDLEY, AND VALENTINO, JJ.

IN THE MATTER OF THOMAS MANN,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BRIAN FISCHER, 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.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (KATE H. NEPVEU OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Wyoming County (Mark
H. Dadd, A.J.), entered August 19, 2013 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 seeking to annul the Parole Board's determination denying him
parole release. "This 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 Patterson v Berbary*, 1 AD3d 943, 943, appeal
dismissed and lv denied 2 NY3d 731; see *Matter of Robles v Evans*, 100
AD3d 1455, 1455). Contrary to petitioner's contention, the exception
to the mootness doctrine does not apply here (see generally *Matter of
Hearst Corp. v Clyne*, 50 NY2d 707, 714-715; *Matter of Sanchez v Evans*,
111 AD3d 1315, 1315).

Entered: November 21, 2014

Frances E. Cafarell
Clerk of the Court