

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

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CA 09-00786

PRESENT: SMITH, J.P., PERADOTTO, CARNI, PINE, AND GORSKI, JJ.

IN THE MATTER OF RICHARD ROBLES,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

GEORGE B. ALEXANDER, CHAIRMAN, NEW
YORK STATE DIVISION OF PAROLE,
RESPONDENT-RESPONDENT.

RICHARD ROBLES, PETITIONER-APPELLANT PRO SE.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (VICTOR PALADINO OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (David M. Barry, J.), entered January 16, 2009 in a proceeding pursuant to CPLR article 78. The judgment dismissed the petition.

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

Memorandum: Supreme Court properly dismissed the petition, pursuant to which petitioner challenged the denial by the New York State Division of Parole (Board) of his request for parole release. Because the Board properly considered the relevant statutory factors (see Executive Law § 259-i [2] [c] [A]) and there has been no "showing of irrationality bordering on impropriety" (*Matter of Russo v New York State Bd. of Parole*, 50 NY2d 69, 77), there is no basis for disturbing the determination of the Board (see *Matter of Pearl v New York State Div. of Parole*, 25 AD3d 1058; *Matter of Romer v Dennison*, 24 AD3d 866, 867-868, lv denied 6 NY3d 706). Contrary to the contention of petitioner, his challenges to the 1987 and 1994 determinations of the Board are time-barred inasmuch as the instant proceeding was not commenced within four months after those determinations became "final and binding upon the petitioner" (CPLR 217 [1]), i.e., when he became "aggrieved" by them (*Matter of Yarbough v Franco*, 95 NY2d 342, 346). We have considered petitioner's remaining contentions and conclude that they are without merit.

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court