

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

**206**

**KAH 09-00858**

PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, AND GREEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK EX REL.  
JAMES COSTANZO, PETITIONER-APPELLANT,

V

ORDER

JAMES MORRISSEY, SUPERINTENDENT, BUTLER  
CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT.

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ROBERT A. DINIERI, CLYDE, FOR PETITIONER-APPELLANT.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (MARCUS J. MASTRACCO OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Wayne County (John  
B. Nesbitt, A.J.), entered March 5, 2009 in a habeas corpus  
proceeding. The judgment denied the petition.

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

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court