

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

1432

KAH 09-00943

PRESENT: HURLBUTT, J.P., MARTOCHE, SMITH, CARNI, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
DERRICK MCPHERSON, PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

MELVIN WILLIAMS, SUPERINTENDENT, WILLARD DRUG
TREATMENT CAMPUS, RESPONDENT-APPELLANT.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (RAJIT S. DOSANJH OF
COUNSEL), FOR RESPONDENT-APPELLANT.

Appeal from a judgment of the Supreme Court, Seneca County
(Dennis F. Bender, A.J.), dated February 2, 2009 in a habeas corpus
proceeding. The judgment granted the petition and directed release of
petitioner to parole supervision.

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

Memorandum: Respondent appeals from a judgment granting the
petition seeking a writ of habeas corpus and directing petitioner's
release to parole supervision. During the pendency of this appeal,
however, petitioner's parole was violated and petitioner is presently
incarcerated. This appeal therefore has been rendered moot (*see*
People ex rel. Maldonado v Williams, 67 AD3d 1328), and the exception
to the mootness doctrine does not apply (*cf. Lindsay v New York State*
Bd. of Parole, 48 NY2d 883; *People ex rel. Frisbie v Hammock*, 112 AD2d
721).

All concur except HURLBUTT, J.P., who is not participating.

Entered: March 26, 2010

Patricia L. Morgan
Clerk of the Court