

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

1376.2

**KAH 10-00772**

PRESENT: MARTOCHE, J.P., CENTRA, CARNI, LINDLEY, AND PINE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK EX REL.  
MICHAEL MATTER, PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL F. HOGAN, PH.D., COMMISSIONER, NEW  
YORK STATE OFFICE OF MENTAL HEALTH,  
RESPONDENT-APPELLANT.  
(APPEAL NO. 2.)

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ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL),  
FOR RESPONDENT-APPELLANT.

EMMETT J. CREAHAN, DIRECTOR, MENTAL HYGIENE LEGAL SERVICE, BUFFALO  
(JEFFREY T. LACEY OF COUNSEL), FOR PETITIONER-RESPONDENT.

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Appeal from a judgment (denominated judgment and order) of the Supreme Court, Niagara County (Richard C. Kloch, Sr., A.J.), entered March 30, 2010 in a proceeding pursuant to CPLR article 70. The judgment, inter alia, granted the petition for a writ of habeas corpus and discharged petitioner from the custody of the New York State Office of Mental Health.

It is hereby ORDERED that the judgment so appealed from is unanimously reversed on the law without costs and the petition is denied.

Same Memorandum as in *Matter of State of New York v Matter* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Nov. 19, 2010]).

Entered: November 19, 2010

Patricia L. Morgan  
Clerk of the Court