

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

1490

TP 10-01553

PRESENT: CENTRA, J.P., LINDLEY, SCONIERS, GREEN, AND GORSKI, JJ.

IN THE MATTER OF ROBERT TUMMINIA, PETITIONER,

V

ORDER

JOHN B. LEMKE, SUPERINTENDENT AND HEARING
OFFICER LT. GIANNINO, FIVE POINTS CORRECTIONAL
FACILITY, RESPONDENTS.

ROBERT TUMMINIA, PETITIONER PRO SE.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (OWEN DEMUTH OF COUNSEL),
FOR RESPONDENT.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Seneca County [Dennis F. Bender, A.J.], entered May 21, 2010) to review a determination of respondents. The determination found after a Tier II hearing that petitioner had violated various inmate rules.

It is hereby ORDERED that said proceeding is unanimously dismissed without costs as moot (see *Matter of Free v Coombe*, 234 AD2d 996).

Entered: December 30, 2010

Patricia L. Morgan
Clerk of the Court