

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

858

**TP 11-00670**

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, GREEN, AND GORSKI, JJ.

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IN THE MATTER OF BERNARD PITTS, PETITIONER,

V

ORDER

MALCOLM R. CULLY, SUPERINTENDENT, LIVINGSTON  
CORRECTIONAL FACILITY, RESPONDENT.

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BERNARD PITTS, PETITIONER PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (MARCUS J. MASTRACCO OF  
COUNSEL), FOR RESPONDENT.

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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, Livingston County [Robert B. Wiggins, A.J.], entered December 10, 2010) to review a determination of respondent. The determination found after a Tier III 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: September 30, 2011

Patricia L. Morgan  
Clerk of the Court