

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

1081

CA 13-01787

PRESENT: SMITH, J.P., PERADOTTO, CARNI, VALENTINO, AND WHALEN, JJ.

---

IN THE MATTER OF CHARLES VENTURA,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BRIAN FISCHER, COMMISSIONER, NEW YORK STATE  
DEPARTMENT OF CORRECTIONS AND COMMUNITY  
SUPERVISION, RESPONDENT-RESPONDENT.

---

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (LEAH R. NOWOTARSKI OF  
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (JULIE M. SHERIDAN OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

---

Appeal from a judgment of the Supreme Court, Wyoming County (Mark  
H. Dadd, A.J.), entered August 19, 2013 in a proceeding pursuant to  
CPLR article 78. The judgment dismissed the petition.

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

Memorandum: Petitioner appeals from a judgment dismissing his  
petition pursuant to CPLR article 78 in which he sought to annul the  
Parole Board's determination denying his request for release to parole  
supervision. "This appeal must be dismissed as moot because the  
determination expired during the pendency of this appeal, and the  
Parole Board denied petitioner's subsequent request for parole  
release" (*Matter of Patterson v Berbery*, 1 AD3d 943, 943, appeal  
dismissed and lv denied 2 NY3d 731; see *Matter of Robles v Evans*, 100  
AD3d 1455, 1455). Contrary to petitioner's contention, the exception  
to the mootness doctrine does not apply (see generally *Matter of  
Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: November 14, 2014

Frances E. Cafarell  
Clerk of the Court