

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

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KAH 11-00998

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, SCONIERS, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK EX REL.
THOMAS AIKENS, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

DAWSON BROWN, SUPERINTENDENT, GROVELAND
CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT.

GENESEE VALLEY LEGAL AID, INC., GENESEO (JEANNIE MICHALSKI OF
COUNSEL), FOR PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Livingston County
(Dennis S. Cohen, A.J.), entered January 13, 2011 in a habeas corpus
proceeding. 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 for a writ of habeas corpus. We note at the outset that the
date on which judgment was entered is incorrect in petitioner's notice
of appeal. The index number in the notice of appeal is correct,
however, and we exercise our discretion to treat the notice of appeal
as valid (*see* CPLR 5520 [c]; *People v Mitchell*, 93 AD3d 1173, 1173, *lv*
denied 19 NY3d 999; *People ex rel. Cass v Khahaifa*, 89 AD3d 1517,
1517-1518).

Petitioner concedes that he was released to parole supervision
before this appeal was perfected, and we thus conclude that the appeal
has been rendered moot (*see People ex rel. Campolito v Hale*, 70 AD3d
1474, 1474). The exception to the mootness doctrine does not apply
herein (*see id.*). In any event, petitioner was not deprived of due
process because he personally did not receive the decision revoking
his parole. Notice to petitioner's attorney served as notice to
petitioner (*see People ex rel. Knowles v Smith*, 54 NY2d 259, 266).
"[I]t is notification, not personal notification, that is a
requirement of due process" (*id.*).

Entered: February 8, 2013

Frances E. Cafarell
Clerk of the Court