

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

1042

CA 13-00084

PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND SCONIERS, JJ.

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IN THE MATTER OF AN APPLICATION FOR A SUBSEQUENT  
RETENTION ORDER PURSUANT TO CPL 330.20 IN  
RELATION TO S.J., RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK, PETITIONER-RESPONDENT.

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EASTON THOMPSON KASPEREK SHIFFRIN LLP, ROCHESTER (BRIAN SHIFFRIN OF  
COUNSEL), FOR RESPONDENT-APPELLANT.

S. J., RESPONDENT-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (JONATHAN D. HITSOUS OF  
COUNSEL), FOR PETITIONER-RESPONDENT.

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Appeal, by permission of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Monroe County Court (Vincent M. Dinolfo, J.), dated August 6, 2012 in a proceeding pursuant to CPL 330.20 (9). The order determined that respondent is mentally ill and authorized the Commissioner of the New York State Office of Mental Health to continue to retain respondent in a nonsecure facility for care and treatment until July 2, 2013.

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

Memorandum: In this proceeding under CPL 330.20, respondent appeals from an order determining that he is mentally ill (see CPL 330.20 [1] [d]), and authorizing the Commissioner of the New York State Office of Mental Health to continue to retain him in a nonsecure facility for care and treatment until July 2, 2013. We dismiss the appeal as moot. The order has expired by its own terms and was superseded by an order subsequently entered, and the issues raised are not sufficiently substantial or novel to warrant invoking the exception to the mootness doctrine (see *Matter of David C.*, 69 NY2d 796, 798; *Matter of Zheng Z. [South Beach Psychiatric Ctr.]*, 68 AD3d 886, 887).

Even assuming, arguendo, that the exception to the mootness doctrine applies, we conclude that a fair interpretation of the evidence supports County Court's determination (see *Matter of*

*Rabinowitz v James M.*, 63 AD3d 481, 481).

Entered: November 15, 2013

Frances E. Cafarell  
Clerk of the Court