



State of New York
Court of Appeals

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Notice to the Bar
Amicus Curiae Participation

The Court granted leave to appeal in *Matter of Barletta v Martuscello* (APL-2026-00078). This appeal is proceeding in the normal course of full briefing and oral argument.

In this article 78 proceeding challenging the failure of respondent Commissioner of the Department of Corrections and Community Supervision (DOCCS) to grant a prison grievance, petitioner was granted leave to appeal from an order of the Appellate Division, Third Department (240 AD3d 1107), which affirmed an order of Supreme Court, Albany County, that dismissed the petition. The issues presented include whether respondent waived the affirmative defense of failure to exhaust administrative remedies and whether petitioner exhausted administrative remedies, or was excused from doing so, when DOCCS did not render a final decision within the 30-day period prescribed by its regulations and petitioner commenced this proceeding after that 30-day period.

The Court invites amicus curiae participation from those qualified and interested. Amicus motions must comply with section 500.23 of the Court's Rules of Practice. Docket information, the briefing schedule, filings and the oral argument date for this appeal are or will be available through the Court's Public Access and Search System (Court-PASS).

Questions may be directed to the Clerk's Office at (518) 455-7705.