

20 A.D.3d 416
Supreme Court, Appellate Division, Second
Department, New York.

In the Matter of Angel DOMENECH, respondent,
v.
Glenn S. GOORD, etc., et al., appellants.

July 5, 2005.

Attorneys and Law Firms

Eliot Spitzer, Attorney-General, New York, N.Y.
(Michael S. Belohlavek and Melanie L. Oxhorn of
counsel), for appellants.

****314** Koob & Magoolaghan, New York, N.Y.
(Alexander A. Reinert of counsel), for respondent.

Opinion

***416** In a proceeding pursuant to CPLR article 78, inter alia, to compel Glenn S. Goord, Brian Fischer, Lester Wright, and John Perilli, to provide the petitioner with medical treatment, the appeal ***417** is from (1) a judgment of the Supreme Court, Westchester County (Smith, J.), dated May 28, 2003, and (2) an amended judgment of the same court dated June 11, 2003, which granted the petition.

ORDERED that the appeal from the judgment is

dismissed, without costs or disbursements, as the judgment was superseded by the amended judgment; and it further,

ORDERED that the amended judgment is affirmed, without costs or disbursements.

Under the circumstances of this case, the denial of medical treatment to the petitioner prison inmate pursuant to the appellants' medical treatment policy constituted deliberate indifference to his medical condition in violation of the U.S. Constitution Eighth Amendment (*see Estelle v. Gamble*, 429 U.S. 97, 104-06, 97 S.Ct. 285, 50 L.Ed.2d 251; *Johnson v. Wright*, 234 F.Supp.2d 352; *cf. Brock v. Wright*, 315 F.3d 158, 165-66; *People ex rel. Sandson v. Duncan*, 306 A.D.2d 716, 717, 761 N.Y.S.2d 379; *Matter of Allah v. White*, 243 A.D.2d 913, 663 N.Y.S.2d 306; *Matter of Singh v. Eagen*, 236 A.D.2d 654, 655, 653 N.Y.S.2d 434).

S. MILLER, J.P., KRAUSMAN, SPOLZINO and LIFSON, JJ., concur.

Parallel Citations

20 A.D.3d 416, 797 N.Y.S.2d 313 (Mem), 2005 N.Y. Slip Op. 05785