

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: February 2, 2017

523029

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In the Matter of MARCUS A.  
MICOLO,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

MICHAEL KIRKPATRICK, as  
Superintendent of Clinton  
Correctional Facility,  
Respondent.

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Calendar Date: November 29, 2016

Before: Peters, P.J., Egan Jr., Devine, Mulvey and Aarons, JJ.

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Marcus A. Micolo, Dannemora, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondent.

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Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Clinton County) to review a determination of respondent finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding to challenge a tier II determination finding him guilty of providing unauthorized legal assistance. The Attorney General has advised this Court that the determination has since been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. Given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Arriaga v Capra, 144 AD3d 1303, 1303 [2016]; Matter of Simmons v

Kirkpatrick, 142 AD3d 1245, 1245 [2016])).

Peters, P.J., Egan Jr., Devine, Mulvey and Aarons, JJ.,  
concur.

ADJUDGED that the petition is dismissed, as moot, without  
costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court