

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

Decided and Entered: April 27, 2017

523113

In the Matter of JOSEPH
DEL GALDO,
Appellant,

v

MEMORANDUM AND ORDER

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
et al.,
Respondents.

Calendar Date: February 28, 2017

Before: Peters, P.J., Garry, Egan Jr., Lynch and Clark, JJ.

Joseph Del Galdo, Woodbourne, appellant pro se.

Eric T. Schneiderman, Attorney General, Albany (Frederick
A. Brodie of counsel), for respondents.

Appeal from a judgment of the Supreme Court (LaBuda, J.),
entered May 3, 2016 in Sullivan County, which dismissed
petitioner's application, in a proceeding pursuant to CPLR
article 78, to review a determination of the Board of Parole
denying petitioner's request for parole release.

Petitioner commenced this CPLR article 78 proceeding
challenging a February 2015 determination of the Board of Parole
that denied his request for parole release. He alleged, among
other things, that the Board failed to take into consideration
his Transitional Accountability Plan (hereinafter TAP) pursuant
to 9 NYCRR 8002.3 (a) (12). Supreme Court dismissed the
petition, but did not address petitioner's claim regarding the

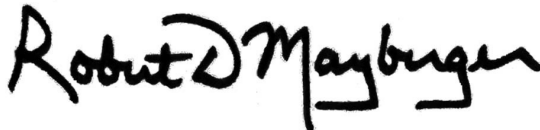
lack of consideration of his TAP due to petitioner's failure to raise that issue on administrative appeal. Petitioner now appeals.

Respondents informed this Court in December 2016 that the Board had conceded that it failed to consider petitioner's TAP when it denied his release in February 2015 and that he was to be provided a de novo hearing. Respondents have further informed this Court that petitioner received that de novo hearing on January 17, 2017, at which time his request for parole was again denied. Accordingly, this appeal is now moot and must be dismissed (see Matter of Ifill v Evans, 87 AD3d 776, 777 [2011]; Matter of Andreo v Alexander, 72 AD3d 1178, 1178 [2010]).

Peters, P.J., Garry, Egan Jr., Lynch and Clark, JJ.,
concur.

ORDERED that the appeal 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