

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

Decided and Entered: August 3, 2017

524295

In the Matter of ANDRE TERRY,
Appellant,

v

MEMORANDUM AND ORDER

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
Respondent.

Calendar Date: June 12, 2017

Before: McCarthy, J.P., Egan Jr., Devine, Mulvey and Rumsey, JJ.

Sophia Heller, Prisoners' Legal Services of New York,
Albany, for appellant.

Eric T. Schneiderman, Attorney General, Albany (Frank Brady
of counsel), for respondent.

Appeal from a judgment of the Supreme Court (Ryba, J.),
entered April 25, 2016 in Albany County, which dismissed
petitioner's application, in a proceeding pursuant to CPLR
article 78, to review a determination of respondent finding
petitioner guilty of violating certain prison disciplinary rules.

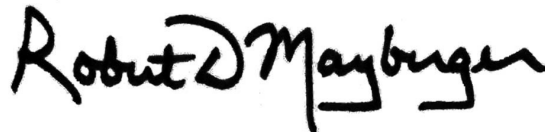
Petitioner commenced this CPLR article 78 proceeding to
challenge a tier III disciplinary determination. Supreme Court
dismissed the petition and this appeal ensued. The Attorney
General has advised this Court that since the filing of the
appeal, the determination has been administratively reversed, all
references thereto have been expunged from petitioner's
institutional record and the mandatory \$5 surcharge has been
refunded to petitioner's inmate account. In view of this, and

given that petitioner has been granted all the relief to which he is entitled, the appeal must be dismissed as moot (see Matter of Colon v Venettozzi, 150 AD3d 1498, 1498 [2017]).

McCarthy, J.P., Egan Jr., Devine, Mulvey and Rumsey, 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