

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

Decided and Entered: July 26, 2018

525781

In the Matter of DONALD
PLATT,

Appellant,

v

MEMORANDUM AND ORDER

ANTHONY RUSSO, as Deputy
Superintendent of
Security, Department of
Corrections and Community
Supervision,

Respondent.

Calendar Date: June 11, 2018

Before: Garry, P.J., McCarthy, Clark, Rumsey and Pritzker, JJ.

Donald Platt, Napanoch, appellant pro se.

Barbara D. Underwood, Attorney General, Albany (William E. Storrs of counsel), for respondent.

Appeal from a judgment of the Supreme Court (Mott, J.), entered August 25, 2017 in Ulster County, which, in a proceeding pursuant to CPLR article 78, denied petitioner's motion to reargue.

Petitioner, an inmate, commenced this CPLR article 78 proceeding challenging a determination finding him guilty of violating certain prison disciplinary rules. Supreme Court dismissed the proceeding for lack of jurisdiction due to petitioner's failure to effect service in accordance with the terms of the order to show cause. The court denied petitioner's

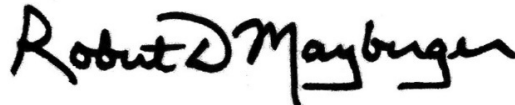
subsequent motion to reargue, which claimed that the court had overlooked or misapprehended facts and law when it dismissed the petition. Petitioner appeals solely from the judgment denying his motion to reargue.

No appeal lies from the denial of a motion to reargue (see Matter of Barnes v Annucci, 144 AD3d 1286, 1287 [2016]; People ex rel. Adams v Cunningham, 134 AD3d 1258, 1259 [2015]). As such, the appeal from said judgment must be dismissed.

Garry, P.J., McCarthy, Clark, Rumsey and Pritzker, JJ.,
concur.

ORDERED that the appeal is dismissed, 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