

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

Decided and Entered: June 27, 2019

528136

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In the Matter of JAMES R.  
MERCER JR.,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

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Calendar Date: May 24, 2019

Before: Egan Jr., J.P., Clark, Devine, Aarons and Pritzker, JJ.

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James R. Mercer Jr., Marcy, petitioner pro se.

Letitia James, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondents.

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

Petitioner commenced this CPLR article 78 proceeding challenging a tier II disciplinary determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that 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. Given that petitioner has received all the relief to which he is entitled in this special proceeding, the petition must be dismissed as moot (see Matter of Haigler v Lilley, 170 AD3d 1411, 1411-1412 [2019]; Matter of Meseck v Noworyta, 170 AD3d 1371, 1372 [2019]).

Egan Jr., J.P., Clark, Devine, Aarons and Pritzker, 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