

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

Decided and Entered: August 3, 2017

523757

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In the Matter of KENNETH  
McMASTER,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

C.S. ROWE, as Correction  
Lieutenant at Upstate  
Correctional Facility,  
et al.,  
Respondents.

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Calendar Date: June 12, 2017

Before: McCarthy, J.P., Lynch, Clark, Mulvey and Rumsey, JJ.

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Kenneth McMaster, Attica, petitioner pro se.

Eric T. Schneiderman, 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 Franklin County) to review a determination of the Superintendent of Upstate Correctional Facility finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging a tier II determination finding him guilty of violating certain disciplinary rules. The Attorney General has informed this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been returned to petitioner's inmate

account. In view of the foregoing, and given that petitioner has received all the relief to which he is entitled, the petition is now moot and must be dismissed (see Matter of Moore v Annucci, 148 AD3d 1445, 1446 [2017]).

McCarthy, J.P., Lynch, Clark, Mulvey and Rumsey, 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