

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

Decided and Entered: May 16, 2019

526904

In the Matter of CHRISTOPHER
MILLER, as Superintendent
of Great Meadow
Correctional Facility,
Respondent,

MEMORANDUM AND ORDER

v

SHANE HYATT,
Appellant.

Calendar Date: March 25, 2019

Before: Egan Jr., J.P., Lynch, Clark, Mulvey and Devine, JJ.

Sheila E. Shea, Mental Hygiene Legal Service, Albany
(Shannon Stockwell of counsel), for appellant.

Letitia James, Attorney General, Albany (Martin A. Hotvet
of counsel), for respondent.

Egan Jr., J.P.

Appeal from an order of the Supreme Court (Auffredou, J.),
entered August 31, 2017 in Washington County, which granted
petitioner's application, in a proceeding pursuant to CPLR
article 4, to authorize the involuntary medical treatment and
feeding of respondent.

Respondent is a prison inmate in the custody of the
Department of Corrections and Community Supervision. During his
incarceration, respondent has engaged in a number of hunger

strikes, which resulted in the issuance of court orders authorizing involuntary medical treatment and feeding. In July 2017, while a previous order was still in effect, respondent began another hunger strike, which ultimately resulted in him receiving forced tube feedings for 27 consecutive days. With the previous order set to expire on September 2, 2017, petitioner commenced this proceeding on August 29, 2017, seeking an order that would continue the authorization for the involuntary feeding, hydration and treatment of respondent. Respondent answered and, following a hearing, Supreme Court granted the petition, authorizing the continued involuntary feeding, hydration and medical treatment of respondent for an additional year. Respondent now appeals, essentially contending that the Court of Appeals decision in Matter of Bezio v Dorsey (21 NY3d 93 [1993]) was wrongly decided and, therefore, Supreme Court erred when it applied the controlling and binding legal standard set forth therein, holding that a forced-feeding order is appropriate as long as it is reasonably related to legitimate penological interests.¹

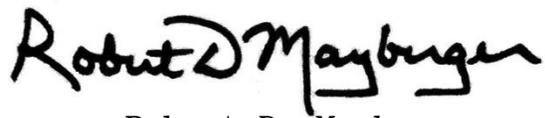
As respondent concedes, the order authorizing the continued force-feeding of respondent expired on August 31, 2018 and respondent has since ended his hunger strike. Accordingly, respondent's present claim has been rendered moot (see Matter of Racette v Messa, 124 AD3d 1096, 1097 [2015]) and, as the exception to the mootness doctrine does not apply (see Matter of Bezio v Dorsey, 21 NY3d at 98 n 4 [2013]), the appeal is dismissed.

Lynch, Clark, Mulvey and Devine, JJ., concur.

¹ Respondent did not seek a preference (see CPLR 5521).

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 style with a large, prominent "R" and "M".

Robert D. Mayberger
Clerk of the Court