

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

Decided and Entered: January 31, 2019

526954

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In the Matter of MICHAEL E.  
CUNNINGHAM,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

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Calendar Date: January 4, 2019

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

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Michael E. Cunningham, Romulus, petitioner pro se.

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

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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 two determinations of the Superintendent of Five Points Correctional Facility finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding to challenge two tier II prison disciplinary determinations finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determinations have been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the

mandatory surcharges have been refunded to petitioner's inmate account. Inasmuch as petitioner has been granted all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Boeck v Annucci, 165 AD3d 1334, 1334 [2018]; Matter of Little v Lee, 164 AD3d 1559, 1560 [2018]).

Egan Jr., J.P., Clark, Devine, Rumsey 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