

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

Decided and Entered: January 23, 2020

529218

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In the Matter of WALLACE DRAKE,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

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Calendar Date: January 3, 2020

Before: Garry, P.J., Egan Jr., Clark, Reynolds Fitzgerald and  
Colangelo, JJ.

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Wallace Drake, Elmira, 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 a determination of respondent finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging a tier III disciplinary determination that found him guilty of violating certain prison disciplinary rules following a hearing. 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 \$5 mandatory surcharge has been refunded to petitioner's inmate account. As petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Telesford v Annucci, 175 AD3d 1717, 1717 [2019]; Matter of Delgado v Annucci, 175 AD3d 1680, 1680 [2019]).

Garry, P.J., Egan Jr., Clark, Reynolds Fitzgerald and Colangelo, 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