

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

Decided and Entered: January 21, 2021

531642

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In the Matter of JAMEL UPSON,  
Petitioner,

v

JOHN RICH, as Superintendent  
of Elmira Correctional  
Facility,  
Respondent.

MEMORANDUM AND JUDGMENT

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Calendar Date: January 4, 2021

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

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Jamel Upson, Elmira, petitioner pro se.

Letitia James, Attorney General, Albany (Kate H. Nepveu 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 Chemung 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 II disciplinary determination finding him guilty of violating certain prison disciplinary rules. 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. In view of this, and given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Mirabella v Colvin, 172 AD3d 1807, 1807 [2019]; Matter of Billups v Annucci, 170 AD3d 1300, 1301 [2019]).

Egan Jr., J.P., Lynch, Clark, Mulvey and Aarons, 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