

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

Decided and Entered: July 22, 2021

531848

THE PEOPLE OF THE STATE OF
NEW YORK ex rel. DUONE
MORRISON,
Petitioner,

v

MEMORANDUM AND ORDER

WILLIAM F. KEYSER, as
Superintendent of Sullivan
Correctional Facility,
Respondent.

Calendar Date: June 17, 2021

Before: Garry, P.J., Aarons, Pritzker, Reynolds Fitzgerald and
Colangelo, JJ.

Duone Morrison, Attica, petitioner pro se.

Letitia James, Attorney General, Albany (Frank Brady of
counsel), for respondent.

Appeal from a judgment of the Supreme Court (Schick, J.),
entered August 5, 2020 in Sullivan County, which denied
petitioner's application for a writ of habeas corpus, in a
proceeding pursuant to CPLR article 70, without a hearing.

While confined at Sullivan Correctional Facility
(hereinafter SCF), petitioner, who is not eligible for parole
until 2031, filed a petition for a writ of habeas corpus seeking
immediate release, asserting that the conditions and safety
practices at SCF placed him at an increased risk of contracting

and experiencing serious complications from COVID-19, which constitutes cruel and unusual punishment and deprives him of due process. Supreme Court denied the application. Petitioner appeals.

The Attorney General has advised this Court that petitioner has been transferred to a different correctional facility to continue serving his sentence. As petitioner is no longer in the custody of SCF's superintendent, who is the sole named respondent, or subject to the conditions complained of at SCF, the appeal is moot and must be dismissed (see People ex rel. Williams v Keyser, 194 AD3d 1295, 1296 [2021]).

Garry, P.J., Aarons, Pritzker, Reynolds Fitzgerald and Colangelo, JJ., concur.

ORDERED that the appeal is dismissed, 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