

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

Decided and Entered: May 23, 2024

CV-23-1397

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In the Matter of ANTHONY DAVIS,  
Appellant,

v

MEMORANDUM AND ORDER

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

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Calendar Date: April 19, 2024

Before: Garry, P.J., Clark, Pritzker, Fisher and Powers, JJ.

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*Anthony Davis*, Malone, appellant pro se.

*Letitia James*, Attorney General, Albany (*Kate H. Nepveu* of counsel), for respondent.

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Appeal from a judgment of the Supreme Court (E. Danielle Jose-Decker, J.), entered June 22, 2023 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to CPLR article 78, to review a determination of respondent finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding raising procedural challenges to a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. Following joinder of issue, Supreme Court rejected petitioner's procedural challenges to the disciplinary determination and denied the petition. This appeal ensued. 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. Given that petitioner has received all of the relief to which he is entitled, the appeal must be dismissed as moot (*see Matter of Baxter v Annucci*, 204 AD3d 1203, 1203 [3d Dept 2022]; *Matter of Brown v Venettozzi*, 164 AD3d 1582, 1582 [3d Dept 2018]).

Garry, P.J., Clark, Pritzker, Fisher and Powers, JJ., concur.

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, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court