

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

Decided and Entered: October 31, 2024

CV-23-1926

In the Matter of JOHNNY
CONCEPCION,
Petitioner,
v

MEMORANDUM AND JUDGMENT

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

Calendar Date: October 4, 2024

Before: Egan Jr., J.P., Lynch, Ceresia, McShan and Mackey, JJ.

Johnny Concepcion, Ossining, petitioner pro se.

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

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 the Superintendent of Sing Sing Correctional Facility finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding to challenge a tier II determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination has since been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge was never collected from petitioner's inmate account. In

view of this, and given that petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (*see Matter of Ballard v Racette*, 140 AD3d 1428, 1428 [2016]).

Egan Jr., J.P., Lynch, Ceresia, McShan and Mackey, 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