

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

Decided and Entered: March 5, 2026

CV-24-1266

In the Matter of KATHERINE
MURPHY,
Appellant,

v

MEMORANDUM AND ORDER

NEW YORK STATE DEPARTMENT
OF CORRECTIONS AND
COMMUNITY SUPERVISION
et al.,
Respondents.

Calendar Date: January 13, 2026

Before: Aarons, J.P., Pritzker, Ceresia, Powers and Mackey, JJ.

Beldock Levine & Hoffman LLP, New York City (*Marc A. Cannan* of counsel), for
appellant.

Letitia James, Attorney General, Albany (*Rachel Raimondi* of counsel), for
respondents.

Pritzker, J.

Appeal from a judgment of the Supreme Court (Meagan Galligan, J.), entered May 20, 2024 in Albany County, which, in a proceeding pursuant to CPLR article 78, granted respondents' motion to dismiss the petition.

Petitioner is the wife of an incarcerated individual (hereinafter the husband) in the custody of respondent Department of Corrections and Community Supervision

(hereinafter DOCCS). Petitioner's visitation rights were suspended indefinitely by DOCCS after a December 2022 incident during visitation at Auburn Correctional Facility. Petitioner thereafter requested that the penalty be modified. A hearing was held in May 2023, at which petitioner was represented by counsel; following the hearing, in a decision dated June 22, 2023, the Hearing Officer affirmed the indefinite suspension of petitioner's visitation privileges. The Hearing Officer's decision stated that an appeal therefrom must be taken in writing "within 60 days of the date this decision was issued." Petitioner filed a written appeal dated September 11, 2023, which was received by DOCCS on September 25, and, in a November 2023 letter, associate counsel for DOCCS informed petitioner that her appeal could not be considered because it was untimely taken.

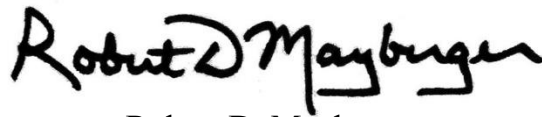
Petitioner commenced this CPLR article 78 proceeding, as relevant here, requesting annulment of the Hearing Officer's determination on the basis that the penalty exceeds the maximum penalty for misconduct and reinstatement of her visitation privileges. Respondents moved pre-answer to dismiss the petition on the basis that petitioner failed to exhaust her administrative remedies. Petitioner opposed, and Supreme Court granted respondents' motion and dismissed the petition based upon petitioner's failure to exhaust her administrative remedies due to filing an untimely appeal. Petitioner appeals.

As a threshold matter, while this appeal was pending, petitioner's visiting privileges have been reinstated as a result of her January 2025 request for reconsideration. Thus, given that petitioner received the ultimate relief sought in the petition, she is no longer aggrieved and her appeal must be dismissed as moot (*see Matter of Adams v Venettozzi*, 163 AD3d 1392, 1393 [3d Dept 2018]; *Matter of Tafari v Leclair*, 79 AD3d 1539, 1540 [3d Dept 2010], *lv denied* 16 NY3d 709 [2011]), and the mootness exception does not apply (*see People ex rel. Nelson v Superintendent of Shawangunk Corr. Facility*, 235 AD3d 1054, 1056 [3d Dept 2025], *lv denied* 44 NY3d 903 [2025]; *Matter of Marxuach v New York State Dept. of Corr. & Community Supervision*, 211 AD3d 1442, 1444 [3d Dept 2022]).

Aarons, J.P., Ceresia, Powers and Mackey, 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 style with a large, stylized "R" and "M".

Robert D. Mayberger
Clerk of the Court