

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Desmarat v. Martuscello

2026 NY Slip Op 04020 · No. CV-25-1464 · Decided June 25, 2026

SUMMARY

The Appellate Division, Third Department dismissed as moot a CPLR article 78 proceeding challenging a tier II prison disciplinary determination. The matter became moot after the determination was administratively reversed, related references were expunged from the petitioner's institutional record, and the mandatory surcharge was refunded.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Garry, P.J.; Clark, J.; Pritzker, J.; Fisher, J.; Mackey, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	June 25, 2026
DOCKET	CV-25-1464
DISPOSITION	dismissed
PROCEDURAL POSTURE	CPLR article 78 proceeding transferred to the Appellate Division to review a prison disciplinary determination.
PRECEDENTIAL VALUE	Published
PARTIES	Jean Marc Desmarat, petitioner v. Daniel F. Martuscello III, as Commissioner of Corrections and Community Supervision, et al., respondents

TOPICS

- mootness
- judicial review of agency action
- agency adjudication
- appellate procedure

PRACTICE AREAS

- Administrative law
- Appellate procedure
- Prison disciplinary proceedings

QUESTIONS PRESENTED

1. Whether the CPLR article 78 proceeding should be dismissed as moot after the challenged disciplinary determination was administratively reversed, expunged, and the surcharge refunded.

HOLDINGS

1. The proceeding was dismissed as moot because petitioner had received all relief to which he was entitled.

KEY QUOTATIONS

“Inasmuch as petitioner has received all of the relief to which he is entitled, this matter is dismissed as moot”
([*1])

FACTUAL BACKGROUND

The Superintendent of Woodbourne Correctional Facility found petitioner guilty of violating prison disciplinary rules in a tier II disciplinary proceeding. During the article 78 proceeding, the determination was administratively reversed, all references were expunged from petitioner's institutional record, and the mandatory \$5 surcharge was refunded.

PROCEDURAL HISTORY

Petitioner commenced a CPLR article 78 proceeding challenging a tier II disciplinary finding by the Superintendent of Woodbourne Correctional Facility. The Supreme Court entered an order transferring the proceeding to the Appellate Division, and while the matter was pending, respondents advised that the disciplinary determination had been administratively reversed, expunged, and accompanied by a refund of the surcharge.

DISPOSITION

dismissed

CASES CITED

- Matter of Leonard v. Titus, 239 AD3d 1132, 1132 [3d Dept 2025]
- Matter of Acevedo v. Annucci, 237 AD3d 1331, 1331 [3d Dept 2025]

OPINION

Matter of Desmarat v. Martuscello 2026 NY Slip Op 04020

PER CURIAM.

Matter of Desmarat v Martuscello - 2026 NY Slip Op 04020 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Matter of Desmarat v Martuscello 2026 NY Slip Op 04020 June 25, 2026 Appellate Division, Third Department Published by New York State Law Reporting Bureau pursuant to

Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. In the Matter of Jean Marc Desmarat, Petitioner, v Daniel F. Martuscello III, as Commissioner of Corrections and Community Supervision, et al., Respondents. Decided and Entered: June 25, 2026 CV-25-1464 Calendar Date: May 22, 2026 Before: Garry, P.J., Clark, Pritzker, Fisher and Mackey, JJ. Jean Marc Desmarat, Napanoch, petitioner pro se. Letitia James, Attorney General, Albany (Kate H. Nepveu of counsel), for respondents. [*1] 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 Woodbourne Correctional Facility finding petitioner guilty of violating certain prison disciplinary rules. Petitioner commenced this CPLR article 78 proceeding to challenge a tier II disciplinary finding that he had violated certain prison disciplinary rules. The Attorney General has advised this Court that the determination at issue 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 account. Inasmuch as petitioner has received all of the relief to which he is entitled, this matter is dismissed as moot (see Matter of Leonard v Titus , 239 AD3d 1132 , 1132 [3d Dept 2025]; Matter of Acevedo v Annucci , 237 AD3d 1331 , 1331 [3d Dept 2025]). Garry, P.J., Clark, Pritzker, Fisher and Mackey, JJ., concur. ADJUDGED that the petition is dismissed, as moot, without costs. Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.