

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]