

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

Matter of Murphy v. New York State Dept. of Corr. & Community Supervision

2026 NY Slip Op 01258 · No. CV-24-1266 · Decided March 5, 2026

SUMMARY

The Appellate Division, Third Department dismissed as moot an appeal from the dismissal of a CPLR article 78 proceeding challenging the indefinite suspension of the petitioner's visitation privileges by the Department of Corrections and Community Supervision. The court concluded that the petitioner was no longer aggrieved because her visitation privileges had been reinstated, and that no exception to the mootness doctrine applied.

CASE DETAILS

|                       |                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division of the Supreme Court of the State of New York, Third Department                                                                                                    |
| WRITING FOR THE COURT | Pritzker, J.; Aarons, J.P.; Ceresia, J.; Powers, J.; Mackey, J.                                                                                                                       |
| JURISDICTION          | New York Appellate Division, Third Department                                                                                                                                         |
| DECIDED               | March 5, 2026                                                                                                                                                                         |
| DOCKET                | CV-24-1266                                                                                                                                                                            |
| DISPOSITION           | dismissed                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Appeal from a judgment of Supreme Court, Albany County, granting respondents' pre-answer motion to dismiss a CPLR article 78 petition for failure to exhaust administrative remedies. |
| PRECEDENTIAL VALUE    | Published opinion                                                                                                                                                                     |
| PARTIES               | Katherine Murphy v. New York State Department of Corrections and Community Supervision, et al.                                                                                        |

TOPICS

- mootness
- appellate procedure
- judicial review of agency action
- exhaustion of remedies
- administrative law

PRACTICE AREAS

- Administrative law
- Appellate procedure
- Civil procedure

## QUESTIONS PRESENTED

1. Whether the appeal should be dismissed as moot after petitioner received the ultimate relief sought by having her visitation privileges reinstated.
2. Whether the exception to the mootness doctrine applies.

## HOLDINGS

1. The appeal was moot because petitioner received the ultimate relief sought in her petition and was therefore no longer aggrieved.
2. The mootness exception did not apply.

## FACTUAL BACKGROUND

DOCCS indefinitely suspended Katherine Murphy's visitation privileges after a December 2022 incident during visitation at Auburn Correctional Facility. After a May 2023 hearing at which Murphy was represented by counsel, the Hearing Officer affirmed the suspension and stated that an appeal had to be filed in writing within 60 days. Murphy's written appeal was dated September 11, 2023, received by DOCCS on September 25, and rejected as untimely. While her appeal from dismissal of her article 78 proceeding was pending, DOCCS reinstated her visitation privileges after a January 2025 request for reconsideration.

## PROCEDURAL HISTORY

DOCCS indefinitely suspended petitioner's visitation privileges after a December 2022 visitation incident. Following a May 2023 hearing, the Hearing Officer affirmed the suspension and advised that any appeal had to be taken in writing within 60 days. DOCCS rejected petitioner's September 2023 administrative appeal as untimely, and Supreme Court dismissed her article 78 proceeding for failure to exhaust administrative remedies. While the appeal was pending, DOCCS reinstated petitioner's visitation privileges following her January 2025 reconsideration request.

## DISPOSITION

dismissed

## CASES CITED

- Matter of Adams v. Venettozzi, 163 AD3d 1392, 1393 (3d Dept. 2018)
- Matter of Tafari v. Leclaire, 79 AD3d 1539, 1540 (3d Dept. 2010), lv denied 16 NY3d 709 (2011)
- 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)