

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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TP 19-00190

PRESENT: SMITH, J.P., CARNI, DEJOSEPH, TROUTMAN, AND WINSLOW, JJ.

IN THE MATTER OF JULIO SMITH, PETITIONER,

V

MEMORANDUM AND ORDER

ANTHONY ANNUCCI, ACTING COMMISSIONER, NEW YORK
STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION, RESPONDENT.

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (LEAH R. NOWOTARSKI OF
COUNSEL), FOR PETITIONER.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL), FOR
RESPONDENT.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Wyoming County [Michael M. Mohun, A.J.], entered January 30, 2019) to review a determination of respondent. The determination found after a tier III hearing that petitioner had violated an inmate rule.

It is hereby ORDERED that said proceeding is unanimously dismissed without costs.

Memorandum: Petitioner commenced this proceeding seeking to annul a determination, following a tier III disciplinary hearing, that he violated a certain inmate rule. After Supreme Court transferred the proceeding to this Court pursuant to CPLR 7804 (g), respondent issued an administrative order reversing the determination and directing that all references to the disciplinary proceeding be expunged from petitioner's record. Because petitioner has obtained the relief that he could be granted in this proceeding, the proceeding is dismissed as moot (*see Matter of Davis v Annucci*, 169 AD3d 1352, 1352 [4th Dept 2019]; *Matter of Free v Coombe*, 234 AD2d 996, 996 [4th Dept 1996]).

Entered: June 7, 2019

Mark W. Bennett
Clerk of the Court