

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

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**TP 25-01227**

PRESENT: BANNISTER, J.P., MONTOUR, SMITH, NOWAK, AND DELCONTE, JJ.

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IN THE MATTER OF MAMADOU BARRY, PETITIONER,

V

MEMORANDUM AND ORDER

DANIEL F. MARTUSCELLO, III, ACTING COMMISSIONER,  
NEW YORK STATE DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION, RESPONDENT.

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

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (TAYLOR A. SUTTON OF COUNSEL),  
FOR RESPONDENT.

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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 [Donald G. O'Geen, A.J.], entered July 16, 2025) to review a determination of respondent. The determination found after a tier II hearing that petitioner had violated various incarcerated individual rules.

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

Memorandum: Petitioner commenced this CPLR article 78 proceeding seeking to annul the determination, following a tier II disciplinary hearing, that he violated certain incarcerated individual rules. After Supreme Court transferred this proceeding to this Court pursuant to CPLR 7804 (g), the Attorney General advised this Court that respondent has issued an administrative order reversing the determination and that all references to the disciplinary proceeding have been 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 Smith v Annucci*, 173 AD3d 1685, 1685 [4th Dept 2019]; *Matter of Free v Coombe*, 234 AD2d 996, 996 [4th Dept 1996]).

Entered: February 11, 2026

Ann Dillon Flynn  
Clerk of the Court