

*State of New York*  
*Supreme Court, Appellate Division*  
*Third Judicial Department*

Decided and Entered: April 12, 2018

525434

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In the Matter of JAVON  
GONZALEZ,  
Petitioner,  
v

MEMORANDUM AND JUDGMENT

MICHAEL KIRKPATRICK, as  
Superintendent of Clinton  
Correctional Facility,  
Respondent.

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Calendar Date: March 2, 2018

Before: Garry, P.J., Lynch, Devine, Mulvey and Rumsey, JJ.

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Javon Gonzalez, Wallkill, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondent.

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Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Clinton County) to review a determination of respondent finding petitioner guilty of violating a prison disciplinary rule.

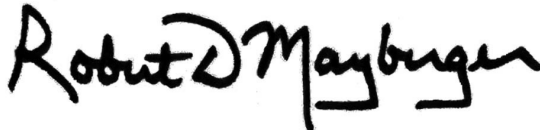
Petitioner commenced this CPLR article 78 proceeding challenging a tier II disciplinary determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to petitioner's inmate account. Although petitioner requests that this Court nonetheless review the matter, the questions presented do not

come within the exception to the mootness doctrine (see Matter of Sawyer v Fischer, 107 AD3d 1188, 1188 [2013]). Accordingly, petitioner has received all of the relief to which he is entitled and the petition must be dismissed as moot (see Matter of Brown v Annucci, 157 AD3d 1182, 1182 [2018]; Matter of Wallace v Annucci, 157 AD3d 1171, 1171 [2018]). As the record reflects that petitioner paid a reduced filing fee of \$15, and he has requested a refund thereof, we grant such request for reimbursement of said amount.

Garry, P.J., Lynch, Devine, Mulvey and Rumsey, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$15.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court