

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

Decided and Entered: April 12, 2018

525592

In the Matter of RICHARD
RIVERA,
Petitioner,
v

MEMORANDUM AND JUDGMENT

WILLIAM LEE, as Superintendent
of Eastern N.Y. Correctional
Facility,
Respondent.

Calendar Date: March 2, 2018

Before: Garry, P.J., Egan Jr., Clark, Mulvey and Rumsey, JJ.

Richard Rivera, Napanoch, petitioner pro se.

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

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

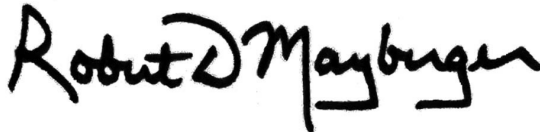
Petitioner commenced this CPLR article 78 proceeding challenging a tier II disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. In view of this, and given that petitioner has received all of the relief to which he is entitled, the petition must be

dismissed as moot (see Matter of Wallace v Annucci, 157 AD3d 1171, 1171 [2018]; Matter of Brown v Annucci, 157 AD3d 1182, 1182 [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 that amount.

Garry, P.J., Egan Jr., Clark, 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