

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

Decided and Entered: June 28, 2018

525636

In the Matter of JULIAN
SILVA,
Petitioner,
v

MEMORANDUM AND JUDGMENT

DONALD VENETTOZZI, as Acting
Director of Special
Housing and Inmate
Disciplinary Programs,
Respondent.

Calendar Date: May 8, 2018

Before: Garry, P.J., Egan Jr., Lynch, Mulvey and Pritzker, JJ.

Julian Silva, Ossining, petitioner pro se.

Barbara D. Underwood, 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 Albany County) to review a determination of the Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination at issue 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. Inasmuch as petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Walker v Annucci, 160 AD3d 1325, 1325-1326 [2018]; Matter of Houghtaling v Venettozzi, 160 AD3d 1309, 1309 [2018]). As the record reflects that petitioner paid a reduced filing fee of \$15 and he has requested reimbursement thereof, we grant petitioner's request for that amount.

Garry, P.J., Egan Jr., Lynch, Mulvey and Pritzker, 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