

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

Decided and Entered: November 8, 2018

525660

In the Matter of BLAKE WINGATE,
Petitioner,

v

DONALD VENETTOZZI, as Acting
Director of Special Housing
and Inmate Disciplinary
Programs, et al.,
Respondents.

MEMORANDUM AND JUDGMENT

Calendar Date: September 18, 2018

Before: McCarthy, J.P., Egan Jr., Lynch, Clark and Mulvey, JJ.

Blake Wingate, Auburn, petitioner pro se.

Barbara D. Underwood, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondents.

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 respondent Superintendent of Coxsackie Correctional Facility finding petitioner guilty of violating certain prison disciplinary rules.

This transferred CPLR article 78 proceeding challenges a tier II prison disciplinary determination finding petitioner 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 \$5

mandatory surcharge was never taken out of petitioner's inmate account. Inasmuch as petitioner has been granted all of the relief to which he is entitled, and we are not persuaded by petitioner's claim that that the exception to the mootness doctrine is applicable (see Matter of Hearst v Clyne, 50 NY2d 707, 714 [1980]), 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 has requested reimbursement thereof, we grant petitioner's request for that amount.

McCarthy, J.P., Egan Jr., Lynch, Clark and Mulvey, 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