

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

Decided and Entered: July 25, 2019

526560

In the Matter of JESSIE J.
BARNES,
Appellant,

v

MEMORANDUM AND ORDER

DOE CARRIGAN, as Investigator
for the Office of Special
Investigations, et al.,
Respondents.

Calendar Date: May 29, 2019

Before: Garry, P.J., Mulvey, Aarons, Rumsey and Pritzker, JJ.

Jessie J. Barnes, Malone, appellant pro se.

Letitia James, Attorney General, Albany (Laura Etlinger of
counsel), for respondents.

Mulvey, J.

Appeal from a judgment of the Supreme Court (Main Jr.,
J.), entered April 3, 2018 in Franklin County, which, among
other things, partially dismissed petitioner's application, in a
proceeding pursuant to CPLR article 78, to compel respondents to
remove and expunge references to an unusual incident report and
use of force report from all records maintained by the
Department of Corrections and Community Supervision.

Petitioner, a prison inmate, commenced this CPLR article
78 proceeding to compel respondents to remove and expunge all

references to an incident contained in an unusual incident report and use of force report from all records maintained by the Department of Corrections and Community Supervision. Supreme Court granted the petition to the extent of directing expungement of those reports only from petitioner's institutional record. Petitioner appeals, contending that Supreme Court erred in not awarding him reimbursement of his filing fee and other related expenses. Because the record does not reflect that petitioner sought recovery of any costs or disbursements in connection with his petition or, thereafter, moved in Supreme Court for an award of costs and disbursements, the court did not err in failing to award such relief.

Garry, P.J., Aarons, Rumsey and Pritzker, JJ., concur.

ORDERED that the judgment is affirmed, without costs.

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