

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

Decided and Entered: September 19, 2019

526873

In the Matter of MICHAEL
DELGADO,
Petitioner,

v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
Respondent.

Calendar Date: August 30, 2019

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

Michael Delgado, Attica, petitioner pro se.

Letitia James, Attorney General, Albany (Marcus J. Mastracco of counsel), 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 respondent finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging a tier III disciplinary determination that found 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 \$5

mandatory surcharge has been refunded to petitioner's inmate account. Inasmuch as petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Harrison v Venettozzi, 171 AD3d 1387, 1387-1388 [2019]; Matter of Boeck v Annucci, 165 AD3d 1334, 1334 [2018]). As the record reflects that petitioner has paid, or is obligated to pay, a reduced filing fee of \$15, and has paid and documented other expenses in connection with this proceeding in the amount of \$45.05, and has requested reimbursement thereof, we grant petitioner's request for that amount. Petitioner's remaining requests have been considered and rejected.

Garry, P.J., Egan Jr., Lynch, Clark and Pritzker, JJ.,
concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$60.05.

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