

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

Decided and Entered: August 1, 2019

528443

In the Matter of JOSEPH SIMON,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: June 21, 2019

Before: Garry, P.J., Lynch, Clark, Devine and Rumsey, JJ.

Joseph Simon, Cape Vincent, petitioner pro se.

Letitia James, 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 two determinations of respondent finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging two tier III prison disciplinary determinations finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determinations have 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. Accordingly, given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Ack v Venettozzi, 169 AD3d 1138, 1139 [2019]; Matter of Williams v Keyser, 167 AD3d 1202, 1202 [2019]). As the record reflects that petitioner was ordered to pay a reduced filing fee of \$15 and he has requested reimbursement thereof, we grant petitioner's request for that amount (see Matter of Sockwell v LaClair, 170 AD3d 1416, 1417 [2019]; Matter of Abdul-Halim v Venettozzi, 164 AD3d 1554, 1555 [2018]).

Garry, P.J., Lynch, Clark, Devine 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