

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

Decided and Entered: August 1, 2019

528457

In the Matter of EVAN
HARRINGTON,
Petitioner,

v

MEMORANDUM AND JUDGMENT

CHRISTOPHER MILLER, as
Superintendent of Great
Meadow Correctional
Facility,
Respondent.

Calendar Date: June 21, 2019

Before: Egan Jr., J.P., Clark, Devine, Aarons and Pritzker, JJ.

Evan Harrington, Comstock, 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 a determination of respondent finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding challenging a tier II disciplinary determination finding him guilty of violating a prison disciplinary rule. 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. Although petitioner requests that we nevertheless review the matter, we find that the exception to the mootness doctrine is inapplicable (see Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714 [1980]). Inasmuch as petitioner has been granted all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Wingate v Venettozzi, 166 AD3d 1174, 1174 [2018], lv denied 33 NY3d 901 [2019]; Matter of Gonzalez v Kirkpatrick, 160 AD3d 1187, 1188 [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.

Egan Jr., J.P., Clark, Devine, Aarons 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