

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

Decided and Entered: January 21, 2021

531714

In the Matter of JOSE SANTANA,
Petitioner,

v

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

MEMORANDUM AND JUDGMENT

Calendar Date: January 4, 2021

Before: Egan Jr., J.P., Lynch, Mulvey, Aarons and Reynolds
Fitzgerald, JJ.

Jose Santana, Woodbourne, petitioner pro se.

Letitia James, Attorney General, Albany (Kate H. Nepveu of
counsel), for respondent.

Proceeding pursuant to CPLR article 78 (transferred to
this Court by order of the Supreme Court, entered in Sullivan
County) to review a determination of respondent finding
petitioner guilty of violating certain prison disciplinary
rules.

Petitioner commenced this CPLR article 78 proceeding
seeking to challenge a tier III disciplinary determination
finding 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 mandatory \$5 surcharge will be refunded to petitioner's inmate account.¹ As petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Vilella v Annucci, 185 AD3d 1362, 1362 [2020]; Matter of Dove v Collado, 182 AD3d 893, 893 [2020]).

Egan Jr., J.P., Lynch, Mulvey, Aarons and Reynolds
Fitzgerald, J.J., concur.

ADJUDGED that the petition is dismissed, as moot, 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

¹ To the extent that respondent has yet to refund the \$5 mandatory surcharge, respondent is directed to take this corrective action (see generally Matter of Anselmo v Annucci, 173 AD3d 1583, 1584 [2019]).