

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

Decided and Entered: April 20, 2017

521888

In the Matter of WALTER
ELLISON,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: February 28, 2017

Before: McCarthy, J.P., Egan Jr., Rose, Clark and Aarons, JJ.

Walter Ellison, Alden, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (William E. Storrs 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 certain prison disciplinary rules.

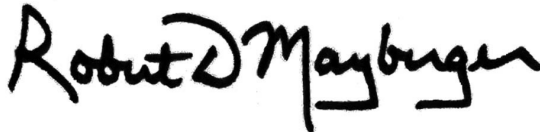
Petitioner commenced this CPLR article 78 proceeding challenging a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has since been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. Given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter

of Arriaga v Capra, 144 AD3d 1303, 1303 [2016]; Matter of Garnes v Annucci, 144 AD3d 1277, 1277 [2016]). The record discloses that petitioner was assessed a \$15 reduced filing fee and, as such, he is entitled to a refund of that amount (see Matter of Cendales v Sheahan, 146 AD3d 1260, 1261 [2017]).

McCarthy, J.P., Egan Jr., Rose, Clark and Aarons, 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