

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

Decided and Entered: November 2, 2017

524575

In the Matter of ECSON CAIMITE,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: September 19, 2017

Before: Peters, P.J., Garry, Rose, Clark and Aarons, JJ.

Ecson Caimite, Attica, petitioner pro se.

Eric T. Schneiderman, 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 certain prison disciplinary rules.

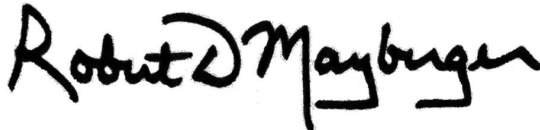
Petitioner commenced this CPLR article 78 proceeding to challenge a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. In view of this, and given that petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of West v Annucci, 134 AD3d 1379,

1380 [2015]). Inasmuch as the record discloses that petitioner was assessed \$30 in reduced filing fees and he has requested a refund thereof, we grant reimbursement of said amount (see Matter of Bailey v Annucci, 147 AD3d 1127, 1128 [2017]).

Peters, P.J., Garry, Rose, Clark and Aarons, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$30.

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