

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

Decided and Entered: December 14, 2017

524775

In the Matter of MOISES COLON,
Petitioner,

v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
et al.,
Respondents.

Calendar Date: October 24, 2017

Before: Peters, P.J., Egan Jr., Clark, Mulvey and Pritzker, JJ.

Moises Colon, Napanoch, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondents.

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

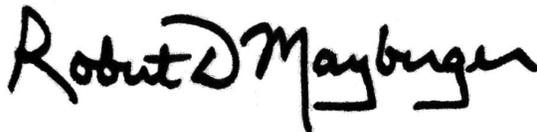
Petitioner commenced this CPLR article 78 proceeding challenging a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has since been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. Additionally, "petitioner is not entitled to be restored to the

status he enjoyed prior to the disciplinary determination" (Matter of Worth v Venettozzi, 152 AD3d 844, 845 [2017] [internal quotation marks and citation omitted]). 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 Nanton v Annucci, 153 AD3d 976, 976 [2017]; Matter of Serrano v Smith, 152 AD3d 854, 854 [2017]). As the record reflects that petitioner paid a reduced filing fee of \$15 and other expenses in the amount of \$24.05, and he has requested a refund thereof, we grant such request for reimbursement of said amounts.

Peters, P.J., Egan Jr., Clark, Mulvey and Pritzker, JJ.,
concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$39.05.

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