

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

Decided and Entered: June 28, 2018

524677

In the Matter of JOHN HOGAN,
Appellant,

v

MEMORANDUM AND ORDER

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

Calendar Date: May 8, 2018

Before: McCarthy, J.P., Egan Jr., Mulvey, Aarons and
Pritzker, JJ.

John Hogan, Collins, appellant pro se.

Barbara D. Underwood, Attorney General, Albany (Martin A. Hotvet of counsel), for respondent.

(1) Appeal from a judgment of the Supreme Court (O'Connor, J.), entered February 13, 2017 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to CPLR article 78, to review a determination of respondent finding petitioner guilty of violating certain prison disciplinary rules, and (2) motion for, among other things, disbursements.

Petitioner commenced this CPLR article 78 proceeding challenging a tier III determination finding him guilty of violating certain prison disciplinary rules. The determination has since 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. We note that the loss of good time incurred by petitioner as a result of the disciplinary proceeding should be restored (see Matter of Rucano v Annucci, 155 AD3d 1217, 1218 [2017], lv denied 30 NY3d 913 [2018]). Otherwise, petitioner has received all of the relief to which he is entitled and, as such, the petition is dismissed as moot (see Matter of Harrison v Annucci, 159 AD3d 1255, 1256 [2018]).

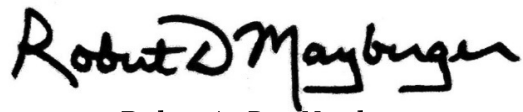
As a final matter, petitioner, by motion, requests that he be reimbursed \$200.64 for disbursements allegedly expended in connection with this proceeding and he submits monthly disbursement statements with those requested expenditures highlighted. A review of the record confirms that petitioner paid a reduced filing fee of \$15, as well as \$6.16 in disbursements related to the proceeding. Absent verifiable proof that the other alleged expenditures in fact related to this proceeding, we grant petitioner's motion requesting reimbursement in the amount of \$21.16.

McCarthy, J.P., Egan Jr., Mulvey, Aarons and Pritzker, JJ., concur.

ORDRED that the appeal is dismissed, as moot, without costs.

ORDERED that the motion is granted, without costs, to the extent that petitioner is awarded disbursements in the amount of \$21.16.

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