

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

Decided and Entered: April 26, 2018

525417

In the Matter of JAMES DALLAS,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: March 2, 2018

Before: Garry, P.J., Egan Jr., Lynch, Rumsey and Pritzker, JJ.

James D. Dallas, Romulus, 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 a prison disciplinary rule.

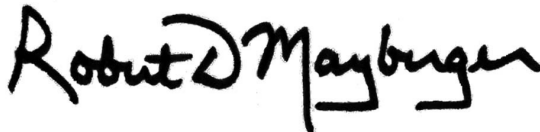
Petitioner commenced this CPLR article 78 proceeding challenging a determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination at issue has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to petitioner's inmate account. We note that the one-month loss of good time imposed as part of the penalty should also be restored to petitioner (see Matter of Guillebeaux v Annucci, 156 AD3d 1001, 1001 [2017]). Otherwise, given that

petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Brown v Annucci, 157 AD3d 1182, 1182 [2018]; Matter of Wallace v Annucci, 157 AD3d 1171, 1171 [2018]). As the record reflects that petitioner paid a reduced filing fee of \$50 and he has requested a refund thereof, we grant such request for reimbursement in that amount.

Garry, P.J., Egan Jr., Lynch, Rumsey and Pritzker, JJ.,
concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$50.

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