

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

Decided and Entered: October 4, 2018

526344

In the Matter of ANTHONY
MEDINA,
Petitioner,

v

MEMORANDUM AND JUDGMENT

NEW YORK STATE DEPARTMENT OF
CORRECTIONS AND COMMUNITY
SUPERVISION,
Respondent.

Calendar Date: August 6, 2018

Before: McCarthy, J.P., Egan Jr., Devine, Mulvey and
Rumsey, JJ.

Anthony Medina, Romulus, petitioner pro se.

Barbara D. Underwood, Attorney General, Albany (Martin A.
Hotvet 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 two determinations of the Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging two separate prison disciplinary determinations. The Attorney General has advised this Court that both determinations have been administratively reversed, all references thereto have been expunged from petitioner's

institutional record and both mandatory \$5 surcharges have been refunded to petitioner's inmate account. Given that restitution in the amount of \$4 was among the penalties imposed with respect to the first determination, any money paid by petitioner toward this amount should be refunded to him (see Matter of Clark v New York State Dept. of Corr. & Community Supervision, 138 AD3d 1331, 1332 [2016]; Matter of Jiminez v Fischer, 107 AD3d 1254, 1255 [2013]). Further, as the record reflects that petitioner paid a reduced filing fee of \$15 and he has requested reimbursement thereof, we grant petitioner's request for that amount.

McCarthy, J.P., Egan Jr., Devine, Mulvey and Rumsey, 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