

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

Decided and Entered: May 30, 2019

527641

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In the Matter of GILBERTO  
SILVA,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

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Calendar Date: April 19, 2019

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

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Gilberto Silva, Fallsburg, petitioner pro se.

Letitia James, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondent.

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Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Sullivan County) to review a determination of the Superintendent of Sullivan Correctional Facility finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding challenging a tier II determination finding him guilty of violating a prison disciplinary rule. 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 \$5

mandatory surcharge has been refunded to petitioner's inmate account. Accordingly, given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Williams v Chappius, 169 AD3d 1151, 1151 [2019]; Matter of Ack v Venettozzi, 169 AD3d 1138, 1139 [2019]). As the record reflects that petitioner was ordered to pay a reduced filing fee of \$15 and he has requested reimbursement thereof, we grant petitioner's request for that amount (see Matter of Abdul-Halim v Venettozzi, 164 AD3d 1554, 1555 [2018]).

Garry, P.J., Egan Jr., Lynch, Clark and Pritzker, 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